MONTANA LEGISLATIVE HISTORY

Chapter 16 1991

Bill H _____ S 33 Original bill & history ✓C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Jan 28	✓C	Hearing Date(s) Jan 11	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Jan 28	✓C	Jan 11	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE BILL NO. 33

INTRODUCED BY GAGE
BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

DECEMBER 31, 1990	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 7, 1991	FIRST READING.
JANUARY 11, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	POSTED ON CONSENT CALENDAR.
JANUARY 12, 1991	CONSENT CALENDAR, QUESTIONS AND ANSWERS.
	PRINTING REPORT.
JANUARY 15, 1991	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 16, 1991	FIRST READING.
	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 28, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
JANUARY 30, 1991	SECOND READING, CONCURRED IN.
JANUARY 31, 1991	THIRD READING, CONCURRED IN. AYES, 98; NOES, 0.
	RETURNED TO SENATE.

IN THE SENATE

JANUARY 31, 1991	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 33

INTRODUCED BY GAGE

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE MONTANA CODE ANNOTATED; CONFORMING PROVISIONS OF THE MONTANA CODE ANNOTATED TO THE MONTANA JUSTICE AND CITY COURT RULES OF CIVIL PROCEDURE; DIRECTING THE CODE COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 52ND LEGISLATURE; AMENDING SECTIONS 1-11-204, 3-7-211, 3-10-702, 3-11-302, 3-15-107, 3-15-705, 7-2-2213, 7-2-2225, 7-6-4202, 7-7-2402, 15-24-1701, 15-31-702, 17-6-305, 17-7-401, 17-7-502, 19-3-513, 19-6-506, 20-7-401, 22-1-501, 22-3-522, 23-2-508, 23-2-611, 25-30-101, 25-31-402, 25-31-406, 25-31-407, 25-31-702, 25-32-101, 25-32-102, 25-32-103, 25-32-104, 27-1-221, 31-1-233, 31-3-141, 33-17-208, 33-21-207, 37-47-101, 39-71-401, 39-71-1019, 40-5-412, 44-12-203, 50-5-1104, 50-16-536, 53-3-321, 61-3-509, 61-8-207, 61-8-312, 61-10-107, 61-10-146, 75-2-503, 75-10-701, 75-10-704, 75-10-718, 76-14-112, 80-9-206, 82-4-222, 82-4-434, 85-7-102, 87-4-304, AND 87-5-121, MCA; AND REPEALING SECTIONS 2-4-321, 2-4-322, 2-4-323, 3-10-305, 3-10-306, 7-2-2214, 25-31-114, 25-31-116, 25-31-201, 25-31-202, 25-31-203, 25-31-204, 25-31-301, 25-31-302, 25-31-303, 25-31-304, 25-31-305, 25-31-306, 25-31-307, 25-31-308, 25-31-401, 25-31-403, 25-31-404, 25-31-408, 25-31-501, 25-31-502, 25-31-503, 25-31-504, 25-31-505, 25-31-506, 25-31-507, 25-31-511, 25-31-521, 25-31-522, 25-31-701, 25-31-804, 25-31-811, 25-31-812, 25-31-901, 25-31-902, 25-31-903, 25-31-904, 25-31-905, 25-31-911, 25-31-912, 25-31-913, 25-31-915, 25-31-1001, 25-31-1003, 25-31-1004, 25-31-1005, 25-31-1101, 25-31-1102, 25-31-1103, 25-31-1105, 25-32-101, 25-32-102, 25-32-103, 25-32-104, 53-8-101, 53-8-102, 53-8-103, AND 53-8-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-11-204, MCA, is amended to read:

"1-11-204. Duties of code commissioner. ~~(1) Prior to January 1, 1979, the code commissioner shall recodify all the laws of a general and permanent nature appearing in the codes and session laws and prepare them for publication.~~

~~(2) Prior to January 1, 1979, the commissioner shall prepare and submit to the legislature a report which is certified by the commissioner as the "Official Report of the Montana Code Commissioner", together with a bill enacting the Montana Code Annotated. A copy of the report and bill shall be deposited with the secretary of state. The report shall explain and indicate, in tabular or other form, all changes made during recodification, other than punctuation and capitalization, to clearly indicate the character of~~

SB 0033/01

INTRODUCED BILL
SB 33

each-change.

~~(3)~~(1) Prior to ~~the~~ November 1 immediately preceding each regular legislative session, the code commissioner shall prepare and submit to the legislative council a report, in tabular or other form, indicating the commissioner's recommendations for legislation ~~which~~ that will:

(a) eliminate archaic or outdated laws;

(b) eliminate obsolete or redundant wording of laws;

(c) eliminate ~~any~~ duplications in law and any laws repealed directly or by implication;

(d) clarify existing laws;

(e) correct errors and inconsistencies within the laws.

~~(4)~~(2) The commissioner shall cause to be prepared for publication with the Montana Code Annotated the following material:

(a) ~~Statutory~~ the statutory history of each code section;

(b) ~~Annotations~~ annotations of state and federal court decisions relating to the subject matter of the code;

(c) ~~Such~~ editorial notes, cross-references, and other matter ~~as~~ the commissioner considers desirable or advantageous;

(d) ~~The~~ the Declaration of Independence;

(e) ~~The~~ the Constitution of the United States of

America and amendments ~~thereto~~ to the constitution;

(f) ~~Acts~~ acts of congress relating to the authentication of laws and records;

(g) ~~The~~ the Organic Act of the Territory of Montana;

(h) The Enabling Act;

(i) The 1972 Constitution of the State of Montana and any amendments ~~thereto~~ to the constitution;

(j) ~~The--Ordinances~~ ordinances relating to federal relations and elections;

(k) ~~Rules~~ rules of civil, criminal, and appellate procedure and ~~such~~ other rules of procedure ~~as~~ the Montana supreme court may adopt; and

(l) ~~A~~ a complete subject index, a popular name index, and comparative disposition tables or cross-reference indexes relating sections of the Montana Code Annotated to prior compilations and session laws.

~~(5)~~(3) After publication of the Montana Code Annotated, the code commissioner shall:

(a) annotate, arrange, and prepare for publication all laws of a general and permanent nature enacted at each legislative session and assign catchlines and code section numbers to each new section;

(b) continue to codify, index, arrange, rearrange, and generally update the Montana Code Annotated to maintain an orderly and logical arrangement of the laws in order to

avoid future need for bulk revision;

(c) prepare and publish a report entitled "Official Report of the Montana Code Commissioner--(year)" ~~which~~ that indicates, in tabular or other form, all changes made during the continuous recodification, other than punctuation, spelling, and capitalization, to clearly indicate the character of each change made since the last ~~such~~ report.

~~(6)~~(4) From time to time, the commissioner shall confer with members of the judiciary and the state bar relative to recodification procedures."

Section 2. Section 3-7-211, MCA, is amended to read:

"**3-7-211. Appointment of water commissioners.** The district court having jurisdiction over the hydrologically interrelated portion of a water division, as described in 85-2-231~~(2)~~(3), in which the controversy arises may appoint and supervise a water commissioner as provided for in Title 85, chapter 5."

Section 3. Section 3-10-702, MCA, is amended to read:

"**3-10-702. Governed by law prescribing sheriffs' duties.** (1) All the provisions of 3-5-407, 7-32-2101, 7-32-2102, 7-32-2121, except subsections (4), (5), and (6), 7-32-2122, 7-32-2124, 7-32-2127, 7-32-2129 through 7-32-2131, 7-32-2250, 25-3-101, 25-3-202, 25-3-204 through 25-3-206, 25-3-301, 25-3-302, 25-13-403, ~~25-31-408(3),~~ 27-18-305, and 27-18-1505 apply to constables and govern

their powers, duties, and liabilities.

(2) The provisions of 7-32-2141(1) apply to constables. Fees collected by a constable for services, as provided in 7-32-2141(1), must be paid to the county treasurer, as provided in 7-4-2511(2), and credited to the budget of the justice's court."

Section 4. Section 3-11-302, MCA, is amended to read:

"**3-11-302. Who named as plaintiff.** (1) A criminal action brought for violation of a city or town ordinance must be brought in the name of the city or town as the plaintiff and against the accused as the defendant.

(2) A criminal action brought for violation of a state law within the city or town may be brought either in the name of the state of Montana as the plaintiff or in the name of the city or town as the plaintiff and must be brought against the accused as the defendant.

(3) A criminal action brought for violation of a state law within the county and within its concurrent jurisdiction with the justice's court must be brought in the name of the state of Montana as the plaintiff and against the accused as the defendant.

(4) A civil action brought in the city court must be prosecuted or defended in the same manner as a civil action in justices' courts under the Montana Justice ~~Courts~~ and City Court Rules of Civil Procedure (Title 25, chapter ~~22~~

23)."

Section 5. Section 3-15-107, MCA, is amended to read:

"**3-15-107. Number in justices' courts.** A jury in a justice's court, both in ~~civil--cases--and~~ misdemeanors, consists of six persons, but the parties may agree to a less number than six."

Section 6. Section 3-15-705, MCA, is amended to read:

"**3-15-705. Manner of impaneling.** The jury ~~shall~~ must be impaneled as provided in:

(1) Title 46, if the action is a criminal one;

(2) Title 25, chapter 7, part 2, and ~~M.R.Civ.P., Rule 47~~ Rule 18B, Montana Justice and City Court Rules of Civil Procedure, if the action is a civil one."

Section 7. Section 7-2-2213, MCA, is amended to read:

"**7-2-2213. Resolution of board of county commissioners.** The board of county commissioners, on the final hearing of ~~such~~ the petition or petitions, shall, by a resolution entered on its minutes, determine:

(1) the boundaries of the proposed new county, and the boundaries ~~so~~ determined by the board ~~shall~~ must be the boundaries of the proposed new county if it is created as ~~herein~~ provided in this part;

(2) whether the petition contains the genuine signatures of at least 50% of the registered electors of the proposed new county as ~~herein~~ required in this part or, in

cases where separate petitions are presented from portions of two or more existing counties as ~~herein~~ required in this part, whether each petition is signed by at least 50% of the registered electors of that portion of each of the existing counties ~~which~~ that is proposed to be taken into the proposed new county;

(3) whether any line of the proposed new county passes within 15 miles of the courthouse situated at the county seat of any county proposed to be divided, except as otherwise provided;

(4) whether the proposed new county ~~will--contain property,--according-to-the-last-preceding-assessment,-which will-equal-in-amount-at-least-$4-million,-inclusive--of--all assessed--valuation~~ and affected existing counties meet the limitations contained in 7-2-2202;

~~(5) whether-the-area-of-any-existing-county-from--which territory-is-taken-to-form-the-new-county-will-be-reduced-to less--than-1,200-square-miles-of-surveyed-land-by-taking-the territory-proposed-to-be-taken-therefrom--to--form--the--new county;~~

~~(6)--whether--the--area--of-the-proposed-new-county-will contain-at-least-1,000-square-miles-of-surveyed-land-to-form the-new-county;~~

~~(7)~~--the class to which the proposed new county will belong after its creation and the name of the proposed new

county as stated in the petition; and

~~(8)~~(6) whether the area embraced within the proposed new county will be reasonably compact."

Section 8. Section 7-2-2225, MCA, is amended to read:

"7-2-2225. Officers of new county. (1) Except as provided in subsections (2) through (4) ~~of this section~~, at the election provided for in 7-2-2215, there ~~shall~~ must be chosen a board of county commissioners and ~~such~~ other county~~,~~ ~~township,~~ and district officers as are provided by law for counties of the class to which the new county belongs.

(2) All elected, qualified, and acting officers of the county or counties who ~~may~~ reside within the proposed new county are considered to be officers of the new county if they file, within 5 days after the final hearing and determination of the petition for the proposed new county, with the board of county commissioners whose duty it ~~shall~~ be is to call the election. ~~their intention~~ Filing with the board is the officers' declaration of intent to become officers of the proposed new county. ~~, and the~~ The board issuing the proclamation of the election shall omit providing for the election of any ~~such~~ officers ~~as~~ who have filed their declaration to continue in office.

(3) All elected, qualified, and acting justices of the peace residing within the proposed new county shall hold

office as justices of the peace in the new county for the remainder of the term for which they were elected.

(4) All elected, qualified, and acting school trustees residing within the proposed new county at the time of the division of ~~such~~ the county into school districts, as provided in ~~7-2-2214~~ Title 20, chapter 6, shall hold office as school trustees in the new county for the remainder of the term for which they were elected on qualifying as school trustees for the respective districts in which they reside, as these districts are organized ~~as provided by this part~~.

(5) The officers elected or appointed under the provisions of this part shall ~~each~~ perform the duties and receive the compensation ~~now~~ provided by general law for the office to which they have been appointed or elected in the counties of the class to which the new county belongs."

Section 9. Section 7-6-4202, MCA, is amended to read:

"7-6-4202. Definitions. As used in this part, the following definitions apply:

(1) The term "clerk" ~~shall mean~~ means the clerk of the city.

(2) The term "council" ~~shall mean~~ means the city council or city commission.

(3) The ~~terms~~ term "municipal corporation" or "municipality" ~~shall mean~~ means the city.

(4) The ~~terms~~ term "treasurer" ~~or "city treasurer"~~

~~shall mean~~ means the city treasurer ~~or the town clerk, whichever is appropriate.~~"

Section 10. Section 7-7-2402, MCA, is amended to read:

"**7-7-2402. Election required to borrow money -- exceptions.** (1) Except as provided in subsection (3), the board of county commissioners ~~must~~ may not borrow money for any of the purposes mentioned in this title or for any single purpose ~~to~~ in an amount exceeding ~~$10,000~~ $500,000 without:

(a) first having submitted the question of a loan to a vote of the electors of the county; and

(b) the approval of a majority of the electors of the county.

(2) If a majority of the votes cast are in favor of the loan, then the board may make the loan, issuing bonds or otherwise as may seem best for the interests of the county.

(3) It ~~shall~~ is not ~~be~~ necessary to submit to the electors the question of borrowing money:

(a) to refund outstanding bonds; or

(b) for the purpose of enabling any county to liquidate its indebtedness to another county incident to the creation of a new county or the change of any county boundary lines."

Section 11. Section 15-24-1701, MCA, is amended to read:

"**15-24-1701. (Temporary) Suspension and cancellation of**

collection of certain property taxes on commercial property -- local government discretion. (1) The governing body of a county or consolidated local government unit may suspend collection of delinquent property taxes on commercial property to facilitate the purchase and continued operation of a business utilizing the commercial property if the property has not been used in a business for 6 months immediately preceding the date of suspension.

(2) The governing body may refuse to suspend delinquent taxes if it determines that the purchase of the commercial property is not an arm's length transaction or if the purchase otherwise appears to be a restructuring of ownership for the primary purpose of escaping payment of delinquent property taxes or if the governing body determines the ~~cancellation~~ suspension is not in the best interest of the county.

(3) If a purchaser of ~~such~~ the commercial property continuously utilizes the property in a profit-oriented, employment-stimulating business for 3 years from the date of purchase, the governing body may cancel the collection of the suspended delinquent property taxes. The governing body may not cancel the suspended delinquent property taxes if the purchaser is delinquent on taxes for any other property within the governing body's taxing jurisdiction. (Terminates December 31, 1993--sec. 17, Ch. 631, L. 1989.)"

Section 12. Section 15-31-702, MCA, is amended to read:

"**15-31-702. Distribution of corporation license taxes collected from banks or savings and loan associations.** (1) All corporation license taxes collected from banks and savings and loan associations ~~shall~~ must be distributed in the following manner:

(a) 20% must be remitted to the state treasurer to be allocated as provided in 15-1-501~~(2)~~ (3); and

(b) 80% is statutorily appropriated, as provided in 17-7-502, for allocation to the various taxing jurisdictions within the county in which the bank or savings and loan association is located.

(2) The corporation license taxes distributed under subsection (1)(b) ~~shall~~ must be allocated to each taxing jurisdiction in the proportion that its mill levy for that fiscal year bears to the total mill levy of the taxing authorities of the district in which the bank or savings and loan association is located.

(3) "Taxing jurisdictions" means, for the purposes of this section, all taxing authorities within a county permitted under state law to levy mills against the taxable value of property in the taxing district in which the bank or savings and loan association is located.

(4) If a return filed by a bank or savings and loan association involves branches or offices in more than one

taxing jurisdiction, the department of revenue shall provide a method by rule for equitable distribution among those taxing jurisdictions."

Section 13. Section 15-35-108, MCA, is amended to read:

"**15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must be allocated according to the provisions in effect on the date the tax is due under 15-35-104. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund ~~moneys--shall~~ money must be deposited in the fund established under 17-6-203~~(5)~~(6) and invested by the board of investments as provided by law.

(2) Starting July 1, 1987, and ending June 30, 1993, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after the allocations provided by subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) 17.5% to the credit of the local impact account. Unencumbered funds remaining in the local impact account at

the end of each biennium are allocated to the state special revenue fund for state equalization aid to public schools of the state.

(b) 30% to the state special revenue fund for state equalization aid to public schools of the state;

(c) 1% to the state special revenue fund to the credit of the county land planning account;

(d) 1 1/4% to the credit of the renewable resource development bond fund;

(e) 5% to a nonexpendable trust fund for the purpose of parks acquisition or management, protection of works of art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund ~~shall~~ must be appropriated as follows:

(i) 1/3 for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) 2/3 for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102;

(f) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(g) 1/2 of 1% to the state special revenue fund for

conservation districts;

(h) 1 1/4% to the debt service fund type to the credit of the water development debt service fund;

(i) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;

(j) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state. (Terminates July 1, 1993--sec. 7, Ch. 541, L. 1983.)

15-35-108. (Effective July 1, 1993) Disposal of severance taxes. Severance taxes collected under this chapter must be allocated according to the provisions in effect on the date the tax is due under 15-35-104. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund ~~moneys--shall~~ money must be deposited in the fund established under 17-6-203~~(5)~~(6) and invested by the board of investments as provided by law.

(2) Coal severance tax collections remaining after allocation to the trust fund under subsection (1) are allocated in the following percentages of the remaining balance:

(a) 17.5% to the credit of the local impact account.

Unencumbered funds remaining in the local impact account at the end of each biennium are allocated to the state special revenue fund for state equalization aid to public schools of the state.

(b) 30% to the state special revenue fund for state equalization aid to public schools of the state;

(c) 1% to the state special revenue fund to the credit of the county land planning account;

(d) 1 1/4% to the credit of the renewable resource development bond fund;

(e) 5% to a nonexpendable trust fund for the purpose of parks acquisition or management, protection of works of art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund ~~shall~~ must be appropriated as follows:

(i) 1/3 for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) 2/3 for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102;

(f) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(g) 1/2 of 1% to the state special revenue fund for conservation districts;

(h) 1 1/4% to the debt service fund type to the credit of the water development debt service fund;

(i) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;

(j) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

Section 14. Section 17-6-305, MCA, is amended to read:

"17-6-305. **Investment of twenty-five percent of the coal tax trust fund in the Montana economy.** (1) Twenty-five percent of all revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203~~(5)~~(6) and 15% of the annual income and earnings on the Montana in-state investment fund appropriated to the coal severance tax permanent fund by 17-5-704(2) ~~shall~~ must be invested in the Montana economy, with special emphasis on investments in new or expanding locally owned enterprises.

(2) In determining the probable income to be derived from investment of this revenue, the long-term benefit to the Montana economy ~~shall~~ must be considered.

(3) The legislature may provide additional procedures to implement this section."

Section 15. Section 17-7-401, MCA, is amended to read:

"17-7-401. Definitions. As used in this part, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means each state office, department, division, board, commission, council, committee, institution, university unit, or other entity or instrumentality of the executive branch, office of the judicial branch, or office of the legislative branch of state government.

(3) "Approving authority" means the governor or his designated representative for executive branch agencies, the chief justice of the supreme court or his designated representative for judicial branch agencies, appropriate legislative committees or a designated representative for legislative branch agencies, or the board of regents or its designated representative for the university system.

(4) "Budget amendment" means a legislative appropriation to increase spending authority for the special revenue fund, proprietary funds, or unrestricted subfund contingent on total compliance with all budget amendment procedures.

(5) "Emergency" means any catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time an

agency's appropriation was made, which was clearly not within the contemplation of the legislature and the governor, and which seriously affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(6) "Executive branch approving authority" means the governor or his designated representative.

(7) "Necessary" means essential to the public welfare and of a nature ~~which~~ that cannot wait until the next legislative session for legislative consideration.

(8) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(9) "University system unit" means the board of regents, office of the commissioner of higher education, university of Montana at Missoula, Montana state university at Bozeman, Montana college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college of the university of Montana at Dillon, the agricultural experiment station with central offices at Bozeman, the ~~forestry~~ Montana forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, or the bureau of mines and geology with central offices at Butte."

Section 16. Section 17-7-502, MCA, is amended to read:

"17-7-502. **Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; and 90-9-306~~;-and-section-13,-House-Bill-No.-861,-laws-of-1985~~.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for ~~such~~ the payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

Section 17. Section 19-3-513, MCA, is amended to read:

"19-3-513. **Election to purchase additional service.** (1) At any time before retirement, a person who became a member of the retirement system before July 1, 1989, and who has 5 years or more of membership service may make a written election with the board to purchase additional service for the purpose of calculating his retirement allowance. Except as provided in subsection (3), the member may purchase 1 year of additional service for each 5 years of membership service that he has qualified under the retirement system,

up to a maximum of 5 years of additional service.

(2) For each year of service purchased under this section, a member shall contribute to the retirement fund an amount equal to his normal compensation for the 12-month period immediately preceding the date he elects to purchase the service multiplied by the combined employee and employer contribution rates ~~on-the-date-he--elects--to--purchase--the service~~ contained in 19-3-701 and 19-3-801 in effect on and after July 1, 1993. Contributions may be made in a lump-sum payment or in installments as agreed upon by the member and the board.

(3) (a) Except as provided in subsection (3)(b), after January 1, 1990, a member may elect to qualify a combined total of 5 years of service under 19-3-503, 19-3-512, or this section.

(b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1, 1990, and who elects to purchase service under this section shall receive credit for the full months of service purchased on or before January 1, 1990.

(4) Service purchased under this section may not be used to qualify a member for service retirement."

Section 18. Section 19-6-506, MCA, is amended to read:

"19-6-506. Supplemental retirement allowance for certain retirees. (1) Retired Montana highway patrol

officers or their surviving spouses who are 65 years of age or older or disabled and who are not entitled through their own or their spouses' contributions to social security or medicare to prepaid medicare hospital insurance coverage are eligible for a supplemental retirement benefit.

(2) Subject to the restrictions in subsection (1) and beginning on the first day of the month after receipt of written application of an eligible retiree, the retirement system shall pay a supplemental benefit equal to the premium for coverage under medicare hospital insurance, excluding coverage for a spouse and dependents, from revenue deposited in the ~~state--special-revenue~~ general fund, as provided in 61-3-321(5). The written application must be accompanied by proof that the retiree is paying for medicare hospital insurance coverage.

(3) The supplemental benefit payment made under subsection (2) may not exceed the medicare hospital insurance premium in effect on July 1, 1989, for similar coverage."

Section 19. Section 20-7-401, MCA, is amended to read:

"**20-7-401. Definitions.** In this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Appropriate public education" means the provision of regular or special education and related aids and

services that are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met.

(2) "Deaf" means a hearing impairment ~~which~~ that is so severe that the child's hearing is nonfunctional for the purpose of educational performance.

(3) "Deaf/blind" means concomitant hearing and visual impairments, the combination of which causes such severe educational problems for the child so impaired that the child cannot be accommodated in a special education program designed solely for deaf or blind children.

(4) "Emotionally disturbed" means a condition exhibiting one or more of the following characteristics to a marked degree and over a long period of time that adversely affects educational performance: an inability to learn ~~which~~ that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes a child who is schizophrenic. The term does not include a child who is socially maladjusted, unless it is determined that the child is emotionally disturbed.

(5) "Handicapped child" means a child evaluated as being mentally retarded, hard-of-hearing, deaf, ~~speech-impaired~~ speech/language impaired, visually handicapped, emotionally disturbed, deaf/blind, multihandicapped, orthopedically impaired, other health-impaired, or as having specific learning disabilities, who because of those impairments needs special education and related services. A child who is 5 years of age or younger may be identified as handicapped without the handicapping condition being specified.

(6) "Hard-of-hearing" means a hearing impairment, whether permanent or fluctuating, ~~which~~ that adversely affects a child's educational performance but ~~which~~ that is not included within the definition of deaf.

(7) "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(8) "Multihandicapped" means concomitant impairments (e.g., mentally retarded/blind or mentally retarded/orthopedically impaired), the combination of which causes such severe educational problems for the child so impaired that the child cannot be accommodated in a special education program designed solely for one of the

impairments. The term does not include deaf/blind children.

(9) "Orthopedically impaired" means a severe orthopedic impairment ~~which~~ that adversely affects a child's educational performance. The term includes but is not limited to impairment caused by congenital anomaly (e.g., clubfoot or absence of some member), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., fractures or burns ~~which~~ that cause contractures, amputation, cerebral palsy).

(10) "Other health-impaired" means:

(a) having an autistic condition that is manifested by severe communication and other developmental and educational problems; or

(b) having limited strength, vitality, or alertness due to chronic or acute health problems, such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle-cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

(11) "Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education and includes speech-language pathology, audiology, occupational therapy, and physical therapy.

(12) "Special education" means specially designed instruction, given at no cost to the parents or guardians,

to meet the unique needs of a handicapped child, including but not limited to classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(13) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, ~~which~~ that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term includes but is not limited to such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems ~~which~~ that are primarily the result of visual, hearing, or motor handicaps; mental retardation; or environmental, cultural, or economic disadvantages.

(14) "Speech/language impaired" means a communication disorder, such as stuttering, impaired articulation, or a language or voice impairment, ~~which~~ that adversely affects a child's interpersonal relationships or educational performance.

(15) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the child.

(16) "Visually handicapped" means a visual impairment ~~which~~ that, after correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children."

Section 20. Section 22-1-501, MCA, is amended to read:

"**22-1-501. State law library created.** The library ~~heretofore~~ formerly known as a department of the state library of Montana and called "the law library" ~~shall become~~ is a separate and distinct library designated the "state law library of the state of Montana". The collections of laws, decisions of courts, law reports, textbooks, legal periodicals, and miscellaneous books and journals together with pamphlets, papers, maps, charts, and manuscripts ~~now~~ in the law library ~~in the capitol building~~ or belonging to ~~such~~ the law library or ~~hereafter~~ acquired by or donated to the law library ~~shall~~ constitute the law library ~~hereby established~~, and the title to all of the property constituting the ~~same now or hereafter shall~~ law library must be in the state of Montana, subject to the custody and control of the library board established ~~herein~~ in 22-1-502."

Section 21. Section 22-3-522, MCA, is amended to read:

"**22-3-522. Uniform Unclaimed Property Act superseded.** The provisions of this part supersede the provisions of Title 70, chapter 9, parts 1 through 3, except that at its

option, a museum may report property that has been on loan unclaimed by its owner for more than ~~7~~ 5 years to the department of revenue for disposition as provided in Title 70, chapter 9, part 3."

Section 22. Section 23-2-508, MCA, is amended to read:

"**23-2-508. Certificate of ownership -- filing of security interests.** (1) Except as provided in subsection (9), a motorboat or sailboat 12 feet in length or longer may not be operated upon the waters of the state unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a motorboat or sailboat 12 feet in length or longer shall apply for a certificate of ownership and a certificate of number with the county treasurer of the county in which the owner resides, upon forms furnished by the department of justice. The forms must require the following information:

(a) name of the owner;

(b) residence of the owner, by town or county;

(c) business or home address of the owner;

(d) name and address of any lienholder;

(e) amount due under any contract or lien;

(f) name of the manufacturer;

(g) model number or name;

(h) identification number;

(i) name and address of the dealer or other person from whom acquired, if known; and

(j) ~~such~~ other information as the department of justice may require.

(3) The application is to be accompanied by documentation of ownership, such as an invoice, a bill of sale, a foreign title, an official certificate of boat number, a fee in lieu of tax receipt, or a certificate of ownership of a trailer purchased with the motorboat or sailboat. An applicant who fails to provide ~~such~~ proof of ownership shall provide a certified statement describing how the motorboat or sailboat 12 feet in length or longer was acquired, from whom acquired, if known, and other information requested by the department of justice.

(4) If a certificate of ownership has previously been issued under the provisions of this part, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to motorboats or sailboats 12 feet in length or longer that are purchased as new and unused vessels or that were operated when the provisions of this part were not in force and effect.

(5) ~~Any~~ A motorboat or sailboat 12 feet in length or longer that does not have a manufacturer's or other

identifying number ~~thereon~~ on the motorboat or sailboat must be assigned an identification number by the department of fish, wildlife, and parks. A fee of $1 must be paid to the department for an assignment of number.

(6) Upon completion of the application, the county treasurer shall issue to the applicant two copies of the certificate of number application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application for a certificate of ownership to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office, and shall furnish the applicant a certificate of ownership containing that information in the application considered necessary by the department and a permanent boat number. The certificate of ownership need not be renewed annually and is valid as long as the person holding it owns the vessel.

(7) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(8) Upon application for a certificate of ownership, a fee of $5 must be paid to the county treasurer, $3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(9) A person who, on July 1, 1988, is the owner of a motorboat or sailboat 12 feet in length or longer with a valid certificate of number issued by the state is not required to file an application for a certificate of ownership for the motorboat or sailboat unless he transfers a part of his interest in the motorboat or sailboat or he renews the certificate of number for the motorboat or sailboat.

(10) A security interest in a boat is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been filed with the department of justice as provided in this section. The lien notice must be filed on a form approved by the department ~~of justice~~. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the boat encumbered. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete boat description, the amount of the lien, and the signature of the debtor. The department of justice shall

file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county ~~where~~ in which the boat is to be registered. The owner of a boat is the person entitled to operate and possess the boat.

(11) A security interest in a boat held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(12) Whenever a security interest or lien is filed against a boat that is subject to two security interests previously perfected by filing under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This boat is subject to additional security interest on file with the Department of Justice." No other information regarding the additional security interests need be endorsed on the certificate.

(13) Satisfactions or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(14) The filing of a security interest or other lien as ~~herein~~ provided in this section perfects a security interest that has attached at the time the certificate of ownership noting the interest is issued. Issuance of a certificate of ownership constitutes constructive notice to subsequent purchasers or encumbrancers, from the time of filing, of the existence of the security interest.

(15) Upon default under a chattel mortgage or conditional sales contract covering a boat, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a boat, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(16) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of $1 for each day that he fails to file the satisfaction.

(17) Upon receipt of any liens, notice of liens

dependent on possession, or attachments against the record of any boat registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(18) It is not necessary to refile with the department of justice any instruments on file in the office of ~~any~~ the county clerk and recorder on October 1, 1989.

(19) A fee of $4 must be paid to the department of justice to file any security interest or other lien against a boat. The $4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of $4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of any security interest or other lien on file with the department of justice. All fees provided for in

this section must be paid to the county treasurer for deposit in the general fund in accordance with 15-1-504."

Section 23. Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a snowmobile shall apply for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose. The forms must require the following information:

(a) name of the owner;

(b) residence of the owner, by town and county;

(c) business or home mail address of the owner;

(d) name and address of any lienholder;

(e) amount due under any contract or lien;

(f) name of the manufacturer;

(g) model number or name;

(h) identification number; and

(i) name and address of the dealer or other person from whom acquired.

(3) The application must be signed by at least one owner or by a properly authorized officer or representative of the owner.

(4) If a certificate of ownership has previously been issued under the provisions of 23-2-601 through 23-2-644, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of 23-2-601 through 23-2-644 were not in force and effect.

(5) Upon completion of the application, on forms furnished by the department of justice, the county treasurer shall issue to the applicant two copies of the application, one of which ~~shall~~ must be marked "file copy". The treasurer shall forward one copy and the original application to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership, which ~~shall~~ must contain that information in the application considered necessary by the department of justice, and a permanent ownership number. The certificate of ownership is not to be renewed annually and is valid as long as the person holding it owns the snowmobile.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being

transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of $5 ~~shall~~ must be paid to the county treasurer, $3.50 of which ~~shall~~ must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(8) A security interest in a snowmobile is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been filed with the department of justice as provided in this section. The lien notice must be filed on a form approved by the department ~~of justice~~. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the snowmobile encumbered. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete snowmobile description, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the

certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county ~~where~~ in which the snowmobile is to be registered. The owner of a snowmobile is the person entitled to operate and possess the snowmobile.

(9) A security interest in a snowmobile held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(10) Whenever a security interest or lien is filed against a snowmobile that is subject to two security interests previously perfected by filing under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This snowmobile is subject to additional security interest on file with the Department of Justice". No other information regarding the additional security interests need be endorsed on the certificate.

(11) Satisfactions or statements of release filed with

the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(12) The filing of a security interest or other lien as ~~herein~~ provided in this section perfects a security interest that has attached at the time the certificate of ownership noting the interest is issued. Issuance of a certificate of ownership constitutes constructive notice to subsequent purchasers or encumbrancers, from the time of filing, of the existence of the security interest.

(13) Upon default under a chattel mortgage or conditional sales contract covering a snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a snowmobile, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(14) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of $1 for each day that he fails to file the satisfaction.

(15) Upon receipt of any liens, notice of liens dependent on possession, or attachments against the record

of any snowmobile registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(16) It is not necessary to refile with the department of justice any instruments on file in the office of the county clerk and recorder on October 1, 1989.

(17) A fee of $4 must be paid to the department of justice to file any security interest or other lien against a snowmobile. The $4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of $4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of a security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in

the general fund in accordance with 15-1-504."

Section 24. Section 25-30-101, MCA, is amended to read:

"**25-30-101. Applicability of district court and justice's court rules.** (1) The provisions of 3-10-222, 3-10-231 through 3-10-234, ~~3-10-305,~~ ~~3-10-306,~~ and 3-10-704 through 3-10-706; 25-31-102(2), ~~25-31-114 through 25-31-116,~~ ~~25-31-304~~ 25-31-115, 25-31-402~~(2)~~, 25-31-405, parts 7 through 11 of chapter 31 of this title (except ~~25-31-915,~~ 25-31-1002, ~~25-31-1004, and 25-31-1005~~), and chapter 33 of this title; and chapter 9, part 10 of chapter 16, chapter 17, and part 15 of chapter 18 of Title 27 are applicable to municipal courts except when they are inconsistent with the provisions of this chapter and chapter 6 of Title 3, the words "municipal court" being substituted for justice's court and "judge" for justice of the peace.

(2) Except as otherwise provided by this chapter, chapter 6 of Title 3, and the supreme court's rules on disqualification of judges, the proceedings and practice in municipal court ~~shall~~ must be the same as in district court."

Section 25. Section 25-31-402, MCA, is amended to read:

"**25-31-402. ~~Time---for---issuing--summons------security~~ Security for costs.** ~~(1)--The--court--must--endorse--on--the complaint--the-date-upon-which-it-was-filed,-and-at-any-time within-1-year-thereafter--the--plaintiff--may--have--summons~~

~~issued.~~

~~(2)--Justices~~ A justice may, in all cases, require a deposit of money or an undertaking as security for costs of court before issuing a summons."

Section 26. Section 25-31-406, MCA, is amended to read:

"**25-31-406. Time for answer or appearance.** The time specified in the summons for the appearance of the defendant must be as follows:

(1) if an order of arrest be is endorsed upon the summons, ~~forthwith~~ immediately;

(2) in all other cases, the summons ~~shall~~ must provide that the defendant shall answer ~~and, if such answer be~~ in writing, file the ~~same~~ answer, and serve a copy ~~thereof~~ upon the plaintiff or his attorney within 6 20 days after service of ~~this~~ the summons, exclusive of the day of service, and in case of his failure to appear or answer, judgment will be taken against him by default for the relief demanded in the complaint."

Section 27. Section 25-31-407, MCA, is amended to read:

"**25-31-407. ~~Where---summons--may--be~~ Requirements for summons served out of county.** ~~(1)--The--summons--cannot--be served--out--of--the--county--of-the-justice-before-whom-the action-is-brought,-except:~~

~~(a)--when-the-action-is-brought-upon-a-joint-contract-or obligation-of-two-or-more-persons-who--reside--in--different~~

~~counties--and-the-summons-has-been-served-upon-the-defendant resident-of-the-county,-in-which-case--the--summons--may--be served-upon-the-other-defendant-out-of-the-county;~~

~~(b)--when--an--action-is-brought-against-a-party-who-has contracted-to-perform-an-obligation-at--a--particular--place and-resides-in-a-different-county,-in-which-case-summons-may be-served-in-the-county-where-he-resides;-and~~

~~(c)--where--an-action-is-brought-for-an-injury-to-person or-property-and-the-defendant-resides-in-a-different-county, in-which-case-summons-may-be--served--in--the--county--where defendant-resides.~~

~~(2)~~--When a summons issued by a justice of the peace is to be served out of the county in which it was issued, the summons ~~shall~~ must have attached to it a certificate, under seal by the county clerk of the county in which it was issued, to the effect that the person issuing the same summons was an acting justice of the peace at the date of the summons."

Section 28. Section 25-31-702, MCA, is amended to read:

"25-31-702. Trial to be timely. Unless postponed as provided in this part or transferred to another court, the trial of the action may commence at the time set by the court as specified in the notice mentioned in ~~25-31-701~~ Rule 20, Montana Justice and City Court Rules of Civil Procedure, and after the trial has commenced, there ~~must~~ may be no

adjournment for more than 24 hours at any one time until all the issues therein are disposed of."

Section 29. Section 25-32-101, MCA, is amended to read:

"25-32-101. Applicability of laws on procedure in justices' courts. All proceedings in civil actions in city courts must, except as otherwise provided in this chapter ~~otherwise-provided~~, be conducted in the same manner as civil actions in justices' courts and conform to the Montana Justice ~~Courts~~ and City Court Rules of Civil Procedure (Title 25, chapter ~~22~~ 23)."

Section 30. Section 25-32-102, MCA, is amended to read:

"25-32-102. Commencement of action -- complaint. (1) Civil actions in city courts are commenced by filing a complaint as provided under the Montana Justice ~~Courts~~ and City Court Rules of Civil Procedure (Title 25, chapter ~~22~~ 23).

(2) The complaint must set forth a concise statement of the facts constituting the cause of action.

(3) A complaint under 3-11-103 must set forth the interest of the city in the action. An allegation that the cause of action arose from a violation of a city ordinance or failure to perform a duty required by city ordinance is a sufficient interest of the city.

(4) The ordinance may be referred to by its title, section, and number."

Section 31. Section 25-32-103, MCA, is amended to read:

"**25-32-103. Summons.** Immediately after filing the complaint, a summons must be issued, directed to the defendant and returnable as provided under the Montana Justice ~~Courts~~ and City Court Rules of Civil Procedure (Title 25, chapter ~~22~~ 23)."

Section 32. Section 25-32-104, MCA, is amended to read:

"**25-32-104. Answer and immediate trial.** On the return of the summons, the defendant shall file a written answer to the complaint. The answer must conform to the Montana Justice ~~Courts~~ and City Court Rules of Civil Procedure (Title 25, chapter ~~22~~ 23). Upon return of the answer, the case must be tried as in justice's court."

Section 33. Section 27-1-221, MCA, is amended to read:

"**27-1-221. Punitive damages -- liability -- proof -- award.** (1) Subject to ~~subsection (2) and~~ the provisions of 27-1-220 and this section, reasonable punitive damages may be awarded ~~where~~ when the defendant has been found guilty of actual fraud or actual malice.

(2) A defendant is guilty of actual malice if he has knowledge of facts or intentionally disregards facts that create a high probability of injury to the plaintiff and:

(a) deliberately proceeds to act in conscious or intentional disregard of the high probability of injury to the plaintiff; or

(b) deliberately proceeds to act with indifference to the high probability of injury to the plaintiff.

(3) A defendant is guilty of actual fraud if he:

(a) makes a representation with knowledge of its falsity; or

(b) conceals a material fact with the purpose of depriving the plaintiff of property or legal rights or otherwise causing injury.

(4) Actual fraud exists only ~~where~~ when the plaintiff has a right to rely upon the representation of the defendant and suffers injury as a result of ~~such~~ that reliance. The contract definitions of fraud expressed in Title 28, chapter 2, do not apply to proof of actual fraud under this section.

(5) All elements of the claim for punitive damages must be proved by clear and convincing evidence. Clear and convincing evidence means evidence in which there is no serious or substantial doubt about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of evidence, but less than beyond a reasonable doubt.

(6) Liability for punitive damages must be determined by the trier of fact, whether judge or jury.

(7) (a) Evidence regarding a defendant's financial affairs, financial condition, and net worth is not admissible in a trial to determine whether a defendant is

liable for punitive damages. When the jury returns a verdict finding a defendant liable for punitive damages, the amount of punitive damages must then be determined by the jury in an immediate, separate proceeding and be submitted to the judge for review as provided in subsection (7)(c). In the separate proceeding to determine the amount of punitive damages to be awarded, the defendant's financial affairs, financial condition, and net worth must be considered.

(b) When an award of punitive damages is made by the judge, he shall clearly state his reasons for making the award in findings of fact and conclusions of law, demonstrating consideration of each of the following matters:

(i) the nature and reprehensibility of the defendant's wrongdoing;

(ii) the extent of the defendant's wrongdoing;

(iii) the intent of the defendant in committing the wrong;

(iv) the profitability of the defendant's wrongdoing, if applicable;

(v) the amount of actual damages awarded by the jury;

(vi) the defendant's net worth;

(vii) previous awards of punitive or exemplary damages against the defendant based upon the same wrongful act;

(viii) potential or prior criminal sanctions against the

defendant based upon the same wrongful act; and

(ix) any other circumstances ~~which~~ that may operate to increase or reduce, without wholly defeating, punitive damages.

(c) The judge shall review a jury award of punitive damages, giving consideration to each of the matters listed in subsection (7)(b). If after review the judge determines that the jury award of punitive damages should be increased or decreased, he may do so. The judge shall clearly state his reasons for increasing, decreasing, or not increasing or decreasing the punitive damages award of the jury in findings of fact and conclusions of law, demonstrating consideration of each of the factors listed in subsection (7)(b).

(8) Nothing in this section is intended to alter the Montana Rules of Civil Procedure governing discovery of a defendant's financial affairs, financial condition, and net worth."

Section 34. Section 31-1-233, MCA, is amended to read:

"**31-1-233. Insurance.** (1) The amount, if any, included for insurance ~~which~~ that may be purchased by the holder of the contract ~~shall~~ may not exceed the applicable premiums chargeable in accordance with the rates filed with the insurance department of this state where ~~such~~ the rates are required by law to be approved by ~~said~~ the insurance

department.

(2) All ~~such~~ insurance ~~shall~~ purchased by the holder of the contract must be written by an insurance company authorized to do business in this state and ~~shall~~ must be countersigned by a duly licensed resident ~~agent~~ insurance producer authorized to engage in the insurance business in this state.

(3) A buyer may be required to provide insurance on the goods at his own cost for the protection of the seller or holder as well as the buyer, but ~~such~~ the insurance ~~shall be~~ is limited to insurance against substantial risk of loss, damage, or destruction of the goods.

(4) Any other insurance may be included in a retail installment transaction at the buyer's expense only if contracted for voluntarily by the buyer.

(5) If ~~such~~ insurance for which ~~such~~ an identified charge is made insures the life, safety, or health of the buyer or his interest in the goods and is purchased by the holder, the holder shall within 30 days after the execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate or certificates of insurance, written by an insurance company authorized to do business in this state, clearly setting forth:

(a) the amount of the premium;

(b) the kind or kinds of insurance;

(c) the coverages; and

(d) if a policy, all the terms, exceptions, limitations, restrictions, and conditions of the contract or contracts of insurance or, if a certificate, a summary ~~thereof~~ of the terms, exceptions, limitations, restrictions, and conditions.

(6) The seller ~~shall~~ may not decline existing insurance written by an insurance company authorized to do business in this state, and the buyer ~~shall have~~ has the privilege of purchasing insurance from an ~~agent~~ insurance producer or broker of his own selection and of selecting his insurance company, provided that:

(a) the insurance company ~~shall be~~ is acceptable to the holder, which acceptance ~~shall~~ may not be unreasonably or arbitrarily withheld; and

(b) the inclusion of the cost of the insurance premium in the retail installment contract when the buyer selects his ~~agent~~ insurance producer, broker, or company ~~shall be~~ is optional with the seller.

(7) If any insurance is canceled or the premium adjusted, any refund of the insurance premium received by the holder ~~shall~~ must be credited to the final maturing installment of the contract except to the extent applied toward payment for a similar insurance protecting the

interests of the buyer and the holder or either of them."

Section 35. Section 31-3-141, MCA, is amended to read:

"**31-3-141. Actions available to consumer.** (1) A consumer may bring action in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any person who fails to comply with this part.

(2) A person who fails to delete information or incorporate into a report a consumer's statement of dispute because he judges the dispute to be frivolous or irrelevant is liable to suit.

(3) A person, other than the department of ~~revenue~~ social and rehabilitation services under 40-5-261, who furnishes information to a consumer reporting agency ~~which~~ that is false or ~~any~~ a person who furnishes the information with malice or willful intent to injure the concerned consumer is liable to suit.

(4) A consumer who disputes the result of a reinvestigation conducted under 31-3-124 of the accuracy of information provided by the department of ~~revenue~~ social and rehabilitation services may petition for an administrative hearing pursuant to 40-5-261."

Section 36. Section 33-17-208, MCA, is amended to read:

"**33-17-208. Prelicensing education -- basic requirement.** (1) (a) A person applying for a license to act

as an insurance producer for property, casualty, and surety insurance shall complete 40 hours of approved prelicensing education courses in those areas of insurance within 12 months prior to the examination, unless he is exempted from the requirement under subsection (3).

(b) A person applying for a license to act as an insurance producer for life and disability insurance or as an ~~enrollment representative~~ insurance producer for a health service corporation shall complete 40 hours of approved prelicensing education courses in those areas of insurance within 12 months prior to the examination, unless he is exempted from the requirement under subsection (3).

(2) A person applying for licenses to act as an insurance producer for both the property, casualty, and surety areas and the life and disability areas ~~must~~ shall meet the education requirements in all the areas of insurance.

(3) The minimum prelicensing education requirement does not apply to a person who:

(a) has been licensed within the 12 preceding months as an insurance producer in another state that requires prelicensing education and has completed the education in the other state;

(b) seeks a nonresident license, having been licensed as an insurance provider in his state of residence for at

least 1 year;

(c) seeks a nonresident license and is from a state having a prelicensing education requirement;

(d) seeks to reinstate a license lapsed for less than 2 years;

(e) seeks a temporary license under 33-17-216; or

(f) is exempt from examination requirements under 33-17-212(5)."

Section 37. Section 33-21-207, MCA, is amended to read:

"33-21-207. Issuance of policies. Each policy, certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance must be delivered or issued for delivery in Montana only by an insurer authorized to transact insurance in Montana and must, except as provided in 33-17-103, be issued only through a licensed insurance ~~agent~~ producer."

Section 38. Section 37-47-101, MCA, is amended to read:

"37-47-101. (Temporary) Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of outfitters provided for in 2-15-1883.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(3) "License year" means that period commencing January 1 and ending December 31 of the same year.

(4) "Nonresident" means a person other than a resident.

(5) "Outfitter" means any person, except a person providing services on real property that he owns for the primary pursuit of bona fide agricultural interests, who:

(a) engages in the business of outfitting for hunting or fishing parties, as the term is commonly understood;

(b) for consideration provides any saddle or pack animal or personal service for hunting or fishing parties or camping equipment, vehicles, or other conveyance, except boats, for any person to hunt, trap, capture, take, or kill any game and accompanies such a party or person on an expedition for any of these purposes;

(c) for consideration furnishes a boat or other floating craft and accompanies any person for the purpose of catching fish; or

(d) for consideration aids or assists any person in locating or pursuing any game animal.

(6) "Professional guide" and "guide" mean a person:

(a) who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment; or

(b) who has contracted independently with an outfitter and who furnishes personal guiding services and facilities,

transportation, or equipment that he owns in assisting a person to hunt or take game birds or fish. A guide who provides independent contractor services to an outfitter may not provide facilities, equipment, or services for overnight use.

(7) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102.

(8) "Participant" means a person using the services offered by a licensed outfitter or professional guide.

37-47-101. (Effective July 1, 1991) Definitions. As used in this ~~part~~ chapter, unless the context requires otherwise, the following definitions apply:

(1) "License year" means that period commencing January 1 and ending December 31 of the same year.

(2) "Nonresident" means a person other than a resident.

(3) "Outfitter" means ~~any~~ a person, except a person providing services on real property that he owns for the primary pursuit of bona fide agricultural interests, who:

(a) engages in the business of outfitting for hunting or fishing parties, as the term is commonly understood;

(b) for consideration provides ~~any~~ a saddle or pack animal or personal service for hunting or fishing parties or camping equipment, vehicles, or other conveyance, except boats, for ~~any~~ a person to hunt, trap, capture, take, or kill ~~any~~ game and accompanies such a party or person on an

expedition for any of these purposes;

(c) for consideration furnishes a boat or other floating craft and accompanies ~~any~~ a person for the purpose of catching fish; or

(d) for consideration aids or assists ~~any~~ a person in locating or pursuing any game animal.

(4) "Outfitters' council" means the Montana outfitters' council provided for in 2-15-1883.

(5) "Professional guide" ~~and~~ or "guide" ~~mean~~ means a person:

(a) who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment; or

(b) who has contracted independently with an outfitter and who furnishes personal guiding services and facilities, transportation, or equipment in assisting a person to hunt or take game animals or fish.

(6) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102.

(7) "Participant" means a person using the services offered by a license outfitter or professional guide."

Section 39. Section 39-71-401, MCA, is amended to read:

"39-71-401. Employments covered and employments exempted. (1) Except as provided in subsection (2) ~~of--this~~

section, the Workers' Compensation Act applies to all employers as defined in 39-71-117 and to all employees as defined in 39-71-118. An employer who has any employee in service under any appointment or contract of hire, expressed or implied, oral or written, shall elect to be bound by the provisions of compensation plan No. 1, 2, or 3. Every Each employee whose employer is bound by the Workers' Compensation Act is subject to and bound by the compensation plan that has been elected by the employer.

(2) Unless the employer elects coverage for these employments under this chapter and an insurer allows such an election, the Workers' Compensation Act does not apply to any of the following employments:

(a) household and domestic employment;

(b) casual employment as defined in 39-71-116;

(c) employment of a dependent member of an employer's family for whom an exemption may be claimed by the employer under the federal Internal Revenue Code;

(d) employment of sole proprietors or working members of a partnership, except as provided in subsection (3);

(e) employment of a broker or salesman performing under a license issued by the board of realty regulation;

(f) employment of a direct seller engaged in the sale of consumer products, primarily in the customer's home;

(g) employment for which a rule of liability for

injury, occupational disease, or death is provided under the laws of the United States;

(h) employment of any person performing services in return for aid or sustenance only, except employment of a volunteer under 67-2-105;

(i) employment with any railroad engaged in interstate commerce, except that railroad construction work is included in and subject to the provisions of this chapter;

(j) employment as an official, including a timer, referee, or judge, at a school amateur athletic event, unless the person is otherwise employed by a school district;

(k) any person performing services as a newspaper carrier or free-lance correspondent if the person performing the services or a parent or guardian of the person performing the services in the case of a minor has acknowledged in writing that the person performing the services and the services are not covered. As used in this subsection, "free-lance correspondent" is a person who submits articles or photographs for publication and is paid by the article or by the photograph. As used in this subsection, "newspaper carrier":

(i) is a person who provides a newspaper with the service of delivering newspapers singly or in bundles; but

(ii) does not include an employee of the paper who,

incidentally to his main duties, carries or delivers papers.

(3) (a) A sole proprietor or a working member of a partnership who holds himself out or considers himself an independent contractor [and who is not contracting] for cosmetologist's services or barber's services, as defined in 39-51-204(1)(l) must, shall elect to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3, but he may apply to the department for an exemption from the Workers' Compensation Act for himself.

(b) The application must be made in accordance with the rules adopted by the department. The department may deny the application only if it determines that the applicant is not an independent contractor.

(c) When an application is approved by the department, it is conclusive as to the status of an independent contractor and precludes the applicant from obtaining benefits under this chapter.

(d) When an election of an exemption is approved by the department, the election remains effective and the independent contractor retains his status as an independent contractor until he notifies the department of any change in his status and provides a description of his present work status.

(e) If the department denies the application for exemption, the applicant may contest the denial by

petitioning for review of the decision by an appeals referee in the manner provided for in 39-51-1109. An applicant dissatisfied with the decision of the appeals referee may appeal the decision in accordance with the procedure established in 39-51-2403 and 39-51-2404.

(4) (a) A private corporation shall provide coverage for its officers and other employees under the provisions of compensation plan No. 1, 2, or 3. However, pursuant to such rules as the department promulgates and subject in all cases to approval by the department, an officer of a private corporation may elect not to be bound as an employee under this chapter by giving a written notice, on a form provided by the department, served in the following manner:

(i) if the employer has elected to be bound by the provisions of compensation plan No. 1, by delivering the notice to the board of directors of the employer and to the department; or

(ii) if the employer has elected to be bound by the provisions of compensation plan No. 2 or 3, by delivering the notice to the board of directors of the employer, to the department, and to the insurer.

(b) If the employer changes plans or insurers, the officer's previous election is not effective and the officer shall again serve notice as provided if he elects not to be bound.

(c) The appointment or election of an employee as an officer of a corporation for the purpose of excluding the employee from coverage under this chapter does not entitle the officer to elect not to be bound as an employee under this chapter. In any case, the officer ~~must~~ shall sign the notice required by subsection (4)(a) under oath or affirmation, and he is subject to the penalties for false swearing under 45-7-202 if he falsifies the notice.

(5) Each employer shall post a sign in the workplace at the locations where notices to employees are normally posted, informing employees about the employer's current provision of compensation insurance. A workplace is any location where an employee performs any work-related act in the course of employment, regardless of whether the location is temporary or permanent, and includes the place of business or property of a third person while the employer has access to or control over ~~such~~ the place of business or property for the purpose of carrying on his usual trade, business, or occupation. The sign ~~will~~ must be provided by the department, distributed through insurers or directly by the department, and posted by employers in accordance with rules adopted by the department. An employer who purposely or knowingly fails to post a sign as provided in this subsection is subject to a $50 fine for each citation."

Section 40. Section 39-71-1019, MCA, is amended to

read:

"**39-71-1019. Referral to department of social and rehabilitation services for retraining -- benefits -- appeals.** (1) If in its final order of determination the department considers a worker able to return to work in the worker's job pool, the insurer is not liable for rehabilitation benefits, even though the worker independently may pursue a training program of the worker's own choice or seek vocational rehabilitation services from the department of social and rehabilitation services.

(2) If in its final order of determination the department finds the worker needs retraining, the department shall determine the maximum duration for which funds under 39-71-1003 may be used for rehabilitation services under 39-71-1012(2)(d) through (2)(f) and shall refer the worker to the department of social and rehabilitation services for a determination of vocational handicap.

(3) If the department of social and rehabilitation services determines that a disabled worker has a vocational handicap, the worker is eligible for funds under 39-71-1003 up to the maximum duration established in the department's final order of determination.

(4) If a disabled worker seeks vocational rehabilitation services from the department of social and rehabilitation services without giving the insurer the

opportunity to designate a rehabilitation provider or, subsequently, without giving the department the opportunity to designate a rehabilitation panel to provide a report, the insurer is not liable for rehabilitation benefits. The insurer may terminate rehabilitation and other benefits, if any, being received by the worker by following the procedure set forth in 39-71-1032.

(5) The department of social and rehabilitation services, in providing rehabilitation services to a worker referred to it by the department, shall consider but is not bound by the rehabilitation panel report.

(6) If the department of social and rehabilitation services has determined that all appropriate rehabilitation services have been provided to a disabled worker, the department ~~(of social and rehabilitation services)~~ shall document that determination to the department.

(7) The appeal process before the board of social and rehabilitation appeals provided for in 53-7-106 is the exclusive remedy for a person aggrieved in the receipt of services provided by the department of social and rehabilitation services."

Section 41. Section 40-5-412, MCA, is amended to read:

"40-5-412. Initiation of income withholding procedures. (1) In a case concerning a support obligation referred to in 40-5-411, the department shall immediately issue an order

under 40-5-415 for the payment of current support.

(2) In any other case, the department shall monitor and track all support payments required by the support order. If at any time these records indicate that the obligor owes a combination of unpaid support equal to or in excess of 1 month's support, the department shall commence proceedings to initiate withholding of the obligor's income as provided in this part.

(3) To accomplish the purpose of subsection (2), the department by written notice to the obligor may direct an obligor who does not owe unpaid child support equal to or in excess of 1 month's support payment to pay all support through the department, notwithstanding ~~any~~ a court order directing payments to be made to the obligee or clerk of court.

(4) Whenever an obligation for support is paid through ~~the---support---enforcement--and--collections--unit--of~~ the department, the department ~~must~~ shall forward payment to the obligee within 10 days of the department's receipt of payment from the obligor."

Section 42. Section 44-12-203, MCA, is amended to read:

"44-12-203. Presumption -- procedure following answer or expiration of time for answering. (1) There is a rebuttable presumption of forfeiture as to all property listed in 44-12-102, except property listed in

44-12-102(1)(i).

(2) If a verified answer to the petition is not filed within 20 days after the service of the petition and summons, the court upon motion ~~must~~ shall order the property forfeited to the state.

(3) If a verified answer is filed within 20 days, the forfeiture proceedings ~~shall~~ must be set for hearing without a jury ~~not less than~~ no sooner than 60 days after the answer is filed. Notice of the hearing ~~shall~~ must be given in the manner provided for service of the petition and summons."

Section 43. Section 50-5-1104, MCA, is amended to read:

"**50-5-1104. Rights of long-term care facility residents.** (1) The state adopts by reference for all long-term care facilities the rights for long-term care facility residents applied by the federal government to facilities that provide skilled nursing care or intermediate nursing care and participate in a medicaid or medicare program (42 U.S.C. 1395x(j) and 1396d(c), as implemented by regulation).

(2) In addition to the rights adopted under subsection (1), the state adopts for all residents of long-term care facilities the following rights:

(a) A resident or his authorized representative must be informed by the facility at least 30 days in advance of any changes in the cost or availability of services, unless to

do so is beyond the facility's control.

(b) Regardless of the source of payment, each resident or his authorized representative is entitled, upon request, to receive and examine an explanation of his monthly bill.

(c) Residents have the right to organize, maintain, and participate in resident advisory councils. The facility shall afford reasonable privacy and facility space for the meetings of ~~such~~ the councils.

(d) A resident has the right to present a grievance on his own behalf or that of others to the facility or the resident advisory council. The facility shall establish written procedures for receiving, handling, and informing residents or the resident advisory council of the outcome of any grievance presented.

(e) A resident has the right to ask a state agency or a resident advocate for assistance in resolving grievances, free from restraint, interference, or reprisal.

(f) During his stay in a long-term care facility, a resident retains the prerogative to exercise decisionmaking rights in all aspects of his health care, including placement and treatment issues such as medication, special diets, or other medical regimens.

(g) The resident's authorized representative must be notified in a prompt manner of any significant accident, unexplained absence, or significant change in the resident's

health status.

(h) A resident has the right to be free from verbal, mental, and physical abuse, neglect, or financial exploitation. Facility staff shall report to the department and the long-term care ombudsman any suspected incidents of abuse under the Montana Elder and Developmentally Disabled Abuse Prevention Act, Title 53, chapter 5, part 5.

(i) Each resident has the right to privacy in his room or portion of the room. If a resident is seeking privacy in his room, staff members should make reasonable efforts to make their presence known when entering the room.

(j) In case of involuntary transfer or discharge, a resident has the right to reasonable advance notice to ensure an orderly transfer or discharge. Reasonable advance notice requires at least 21 days' written notification of any interfacility transfer or discharge except in cases of emergency or for medical reasons documented in the resident's medical record by the attending physician.

(k) If clothing is provided to the resident by the facility, it must be of reasonable fit.

(l) A resident has the right to reasonable safeguards for his personal possessions brought to the facility. The facility shall provide a means for safeguarding the resident's small items of value in his room or in another part of the facility where he must have reasonable access to

the items.

(m) The resident has the right to have all losses or thefts of personal possessions promptly investigated by the facility. The results of the investigation must be reported to the affected resident.

(3) The administrator of the facility shall adopt whatever additional measures are necessary to implement the residents' rights listed in subsections (1) and (2) and meet any other requirements relating to residents' health and safety that are conditions of participation in a state or federal program of medical assistance."

Section 44. Section 50-16-536, MCA, is amended to read:

"**50-16-536. Method of compulsory process.** (1) Unless the court for good cause shown determines that the notification should be waived or modified, if health care information is sought under 50-16-535 (1)(b), (1)(d), or (1)(e) or in a civil proceeding or investigation under 50-16-535 (1)(i), the person seeking discovery or compulsory process shall mail a notice by first-class mail to the patient or the patient's attorney of record of the compulsory process or discovery request at least 10 days before presenting the certificate required under subsection (2) to the health care provider.

(2) Service of compulsory process or discovery requests upon a health care provider must be accompanied by a written

certification, signed by the person seeking to obtain health care information or his authorized representative, identifying at least one subsection of 50-16-535 under which compulsory process or discovery is being sought. The certification must also state, in the case of information sought under 50-16-535 (1)(b), (1)(d), or (1)(e) or in a civil proceeding under 50-16-535 (1)(i), that the requirements of subsection (1) for notice have been met. A person may sign the certification only if the person reasonably believes that the subsection of 50-16-535 identified in the certification provides an appropriate basis for the use of discovery or compulsory process. Unless otherwise ordered by the court, the health care provider shall maintain a copy of the process and the written certification as a permanent part of the patient's health care information.

(3) In response to service of compulsory process or discovery requests, where authorized by law, a health care provider may deny access to the requested health care information. Additionally, a health care provider may deny access to the requested health care information under 50-16-542(1). If access to requested health care information is denied by the health care provider under 50-16-542(1), the health care provider shall submit to the court by affidavit or other reasonable means an explanation of why

the health care provider believes the information should be protected from disclosure.

(4) Where access to health care information is denied under 50-16-542(1), the court may order disclosure of health care information, with or without restrictions as to its use, as the court considers necessary. In deciding whether to order disclosure, the court shall consider the explanation submitted by the health care provider, the reasons for denying access to health care information set forth in 50-16-542(1), and any arguments presented by interested parties.

(5) A health care provider required to disclose health care information pursuant to compulsory process may charge a reasonable fee, not to exceed the health care provider's actual cost for providing the information, and may deny examination or copying of the information until the fee is paid.

(6) Production of health care information under 50-16-535 and this section does not in itself constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure."

Section 45. Section 53-3-321, MCA, is amended to read:

"53-3-321. Services for recipients in need of special assistance. (1) Unless otherwise exempted, in a county with state-assumed welfare services, a person who has a serious

barrier to employment or who suffers from drug or alcohol dependency shall report to a job search, training, and ~~work~~ workfare program for the purpose of receiving an assessment to determine whether the person is likely to benefit from counseling, therapy, or rehabilitation. The agency shall require that the person be enrolled in either:

(a) a job search, training, and ~~work~~ workfare program established under 53-3-304, except that he need not participate in the job search program under 53-3-304(3)(e) until the agency determines that he is ready to participate in the work force; or

(b) a program designed specifically to help that person overcome problems that impair the potential for employment.

(2) Subject to available funding, a program provided for in subsection (1)(b) may include the following elements:

(a) assessment and testing;

(b) an employability plan;

(c) remedial education or job skills training, if required by the employability plan; and

(d) services, including counseling, therapy, and rehabilitation, to address serious barriers to employment and drug or alcohol dependency.

(3) In order to encourage rehabilitation, the department may restrict services to persons suffering from drug or alcohol dependency to one intervention through the

provision of services described in subsections (2)(a) through (2)(d). The department may continue to provide up to 3 months of additional benefits for those persons participating in a drug or alcohol rehabilitation program. This 3-month extension extends those limitations in 53-3-215."

Section 46. Section 61-3-509, MCA, is amended to read:

"**61-3-509. Disposition of taxes.** (1) Except as provided in subsection (2), the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles and fees in lieu of tax on motor homes, travel trailers, and campers collected under 61-3-504, 61-3-521, and 61-3-537 to a motor vehicle suspense fund, and at some time between March 1 and March 10 of each year and every 60 days thereafter, the county treasurer shall distribute the money in the motor vehicle suspense fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.

(2) The county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of ~~three-quarters--of--a~~ 1 ton or less. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account

to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the general fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901. Any amount forwarded to the state treasurer under this subsection that is not used for district court expenses must be refunded to the counties in the proportion that the amount collected from each county bears to the total amount collected."

Section 47. Section 61-8-207, MCA, is amended to read:

"**61-8-207. Traffic-control signal legend.** Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop" or exhibiting different colored lights successively one at a time or with arrows, the following colors only ~~shall~~ must be used and ~~said~~ the terms and lights ~~shall~~ must indicate and apply to drivers of vehicles and pedestrians as follows:

(1) ~~Green~~ green alone or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn left or right unless a sign at ~~such~~ the place prohibits either ~~such~~ turn. But vehicular traffic, including vehicles turning right or left, ~~shall~~ must yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection ~~of~~ or an adjacent crosswalk

at the time ~~such~~ the signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) ~~Yellow~~ yellow alone or "Caution" when shown following the green or "Go" signal:

(a) Vehicular traffic facing the signal is ~~thereby~~ warned that the red or "Stop" signal will be exhibited immediately thereafter and ~~such~~ vehicular traffic ~~shall~~ may not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing ~~such~~ the signals are ~~thereby~~ advised that there is insufficient time to cross the roadway, and ~~any~~ a pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) ~~Red~~ red alone or "Stop":

(a) Vehicular traffic facing the signal ~~shall~~ must stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and ~~shall~~ must remain standing until green or "Go" is shown alone, until a right turn can safely be made, or until a left turn can safely be made from the far left lane if the turn is made from a one-way street onto another one-way street going left. In making ~~such~~ the turn, vehicular traffic must yield the right-of-way to pedestrians lawfully within the crosswalk and to other traffic lawfully

using the intersection. If a traffic sign legend indicating that no right turn on red or no left turn on red may be made after a stop is posted at ~~said~~ the intersection, ~~such~~ the movement cannot be made until green or "Go" is shown alone.

(b) ~~No~~ A pedestrian facing ~~such~~ a signal ~~shall~~ may not enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(4) ~~Red~~ red with a green arrow:

(a) Vehicular traffic facing ~~such~~ a signal may cautiously enter the intersection only to make the movement indicated by ~~such~~ the arrow but ~~shall~~ must yield the right-of-way to pedestrians lawfully within the crosswalk and to other traffic lawfully using the intersection.

(b) ~~No~~ A pedestrian facing ~~such~~ a signal ~~shall~~ may not enter the roadway unless he can do so safely and without interfering with ~~any~~ vehicular traffic.

(5) ~~Traffic-control~~ traffic-control signal at a place other than an intersection:

(a) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section ~~shall--be~~ are applicable except as to those provisions ~~which~~ that by their very nature can have no application.

(b) Any stop required ~~shall~~ must be made at a sign or marking on the pavement indicating where the stop ~~shall~~ must

be made, but in the absence of any ~~such~~ sign or marking, the stop ~~shall~~ must be made at the signal."

Section 48. Section 61-8-312, MCA, is amended to read:

"61-8-312. Special speed limitations on trucks, truck tractors, motor-driven cycles, and vehicles towing housetrailers. (1) ~~No~~ A person ~~shall~~ may not operate ~~any~~ a truck or truck tractor, the gross weight of which exceeds 8,000 pounds, at a speed greater than 65 miles per hour on those completed sections of interstate and four-lane divided highways and 60 miles per hour on those completed sections of primary and secondary highways. However, the truck nighttime speed limit ~~shall~~ may not exceed that of automobiles, as stated in 61-8-303.

(2) ~~No~~ A person ~~shall~~ may not operate a vehicle subject to a term permit under 61-10-124(3)(d) or a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles subject to special permits under 61-10-124~~(4)~~(6) at a speed greater than 55 miles per hour.

(3) ~~No~~ A person ~~shall~~ may not operate ~~any~~ a motor-driven cycle at any time mentioned in 61-9-201 at a speed greater than 35 miles per hour unless ~~such~~ the motor-driven cycle is equipped with a headlamp or lamps ~~which~~ that are adequate to reveal a person or vehicle at a distance of 300 feet ahead.

(4) ~~No~~ A person ~~shall~~ may not operate a vehicle ~~which~~ that is towing a housetrailer at a speed greater than a maximum of 50 miles per hour."

Section 49. Section 61-10-107, MCA, is amended to read:

"**61-10-107. Maximum gross weight -- when permit required.** (1) An axle may not carry a load in excess of 20,000 pounds, and no two consecutive axles more than 40 inches or less than 96 inches apart may carry a load in excess of 34,000 pounds. For purposes of this section, axles 40 inches or less apart are considered as a single axle. A vehicle or combination may not have more than nine axles. The maximum gross weight allowed on a vehicle, group of axles, or combination of vehicles ~~shall~~ must be determined by the formula:

$$W = 500((LN/(N - 1)) + 12N + 36)$$

in which W equals gross weight, L equals wheel base in feet, and N equals number of axles, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles of ~~such~~ the consecutive sets of tandem axles is 36 feet or more.

(2) Notwithstanding a vehicle's conformance with the requirements of subsection (1), its maximum load per inch of tire width, excluding the steering axle, may not exceed 600 pounds, based on the table in 61-10-105(3).

(3) If the gross weight of a vehicle or combination exceeds 80,000 pounds, the vehicle or combination must have a special permit, which may be issued in the discretion of the department of highways based on evaluation of safety, highway capacity, and economics of highway maintenance and vehicle operation. The fee ~~shall be~~ is $20 per trip permit or $100 per term permit. A term permit may not be issued for a period of time greater than the period for which the GVW license is valid. Owners of vehicles licensed in other jurisdictions may, at the discretion of the department, purchase permits to expire with their registration. Permits may specify and permits issued under 61-10-124~~(4)~~(6) must specify highway routing.

(4) A special permit issued under subsection (3) for the transportation of agricultural products by farm vehicles from a harvesting combine or other harvesting machinery to the point of first unloading ~~shall be~~ is for the full term of the harvest season of the agricultural product transported.

(5) This section does not apply to highways ~~which~~ that are a part of the national system of interstate and defense highways (as referred to in 23 U.S.C. 127) when application of this section would prevent this state from receiving federal funds for highway purposes."

Section 50. Section 61-10-146, MCA, is amended to read:

"61-10-146. Special permits -- misrepresentations and violations as misdemeanor. (1) A person who knowingly and willfully misrepresents the size or weight of a vehicle, combination of vehicles, load, object, or other thing in obtaining a special permit or who does not follow the requirements and conditions of the special permit or who operates a vehicle, combination of vehicles, load, object, or other thing the size or weight of which requires a special permit without first obtaining a special permit is guilty of a misdemeanor.

(2) A person, firm, or corporation convicted of violating any provision of 61-10-124~~(4)~~(6) or any restriction on the special permits issued by the department under 61-10-124~~(4)~~(6) shall be punished by a fine of not less than $500 or more than $1,000 and all special permits issued for the operation of the combination in violation shall be confiscated. The combination must be separated into combinations of legal length before the units may proceed."

Section 51. Section 75-2-503, MCA, is amended to read:

"75-2-503. Rulemaking authority -- issuance of permits. (1) The department shall adopt rules establishing standards and procedures for accreditation of asbestos-related occupations and control of the work performed by persons in asbestos-related occupations. The rules must be consistent with federal law and include but are not limited to:

~~(1)~~(a) standards for training course review and approval;

~~(2)~~(b) standards for accreditation of applicants for asbestos-related occupations;

~~(3)~~(c) examination requirements for accreditation of applicants for asbestos-related occupations;

~~(4)~~(d) requirements for renewal of accreditation, including periodic refresher courses;

~~(5)~~(e) revocation of accreditation;

~~(6)~~(f) inspection requirements for asbestos projects and asbestos-related occupations credentials;

~~(7)~~(g) criteria to determine whether and what type of control measures are necessary for an asbestos project and whether a project is completed in a manner sufficient to protect public health, including criteria setting allowable limits on indoor airborne asbestos. A determination of whether asbestos abatement of a structure is necessary may not be based solely upon the results of airborne asbestos testing.

~~(8)~~(h) requirements for issuance of asbestos project permits and conditions that permitholders ~~must~~ shall meet;

~~(9)~~(i) standards for seeking injunctions, criminal and civil penalties, or emergency actions;

~~(10)~~(j) advance notification procedures and issuance of permits for asbestos projects; and

~~(ii)~~---~~(a)~~(k) fees, which must be commensurate with costs, for:

(i) review and approval of training courses;

(ii) application for and renewal of accreditation by a person seeking to pursue an asbestos-related occupation;

(iii) issuance of asbestos project permits; and

(iv) requested inspections of asbestos projects~~;~~.

~~(b)--fees-must-be-commensurate-with-costs;~~

~~(c)---for~~ (2) For asbestos projects having a cost of $3,000 or less, the department shall issue asbestos project permits within 7 calendar days following the receipt of a properly completed permit application and the appropriate fee."

Section 52. Section 75-10-701, MCA, is amended to read:

"75-10-701. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Director" means the director of the department of health and environmental sciences.

(3) "Environment" means any surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the state of Montana or under

the jurisdiction of the state of Montana.

(4) (a) "Facility" means:

(i) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

(ii) any site or area where a hazardous or deleterious substance has been deposited, stored, disposed of, placed, or otherwise come to be located.

(b) The term does not include any consumer product in consumer use.

(5) "Fund" means the environmental quality protection fund established in 75-10-704.

(6) "Hazardous or deleterious substance" means a substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose an imminent and substantial threat to public health, safety, or welfare or the environment and is:

(a) a substance that is defined as a hazardous substance by section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14), as amended;

(b) a substance identified by the administrator of the United States environmental protection agency as a hazardous

substance pursuant to section 102 of CERCLA, 42 U.S.C. 9602, as amended;

(c) a substance that is defined as a hazardous waste pursuant to section 1004(5) of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6903(5), as amended, including a substance listed or identified in 40 CFR 261; or

(d) any petroleum product.

(7) "Natural resources" means land, fish, wildlife, biota, air, surface water, ground water, drinking water supplies, and any other such resources within the state of Montana owned, managed, held in trust or otherwise controlled by or appertaining to the state of Montana or a political subdivision of the state.

(8) (a) "Owns or operates" means owning, leasing, operating, managing activities at, or exercising control over the operation of a facility.

(b) The term does not include holding the indicia of ownership of a facility primarily to protect a security interest in the facility or other location unless the holder has participated in the management of the facility. The term does not apply to the state or a local government that acquired ownership or control through bankruptcy, tax delinquency, abandonment, lien foreclosure, or other circumstances in which the government acquires title by virtue of its function as sovereign, unless the state or

local government has caused or contributed to the release or threatened release of a hazardous or deleterious substance from the facility. The term also does not include the owner or operator of the Milltown dam licensed under part 1 of the Federal Power Act (FERC license No. 2543-004) if a hazardous or deleterious substance has been released into the environment upstream of the dam and has subsequently come to be located in the reservoir created by ~~such~~ the dam, unless ~~such~~ the owner or operator is a person who would otherwise be liable for ~~such~~ a release or threatened release under 75-10-715(1).

(9) "Person" means an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, partnership, association, corporation, commission, state or state agency, political subdivision of the state, interstate body, or the federal government, including a federal agency.

(10) "Petroleum product" includes gasoline, crude oil (except for crude oil at production facilities subject to regulation under Title 82), fuel oil, diesel oil or fuel, lubricating oil, oil sludge or refuse, and any other petroleum-related product or waste or fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute).

(11) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting,

escaping, leaching, dumping, or disposing of a hazardous or deleterious substance ~~either~~ directly into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous or deleterious substance), but excludes releases confined to the indoor workplace environment, the use of pesticides as defined in 80-8-102(30) when they are applied in accordance with approved federal and state labels, and the use of commercial fertilizers as defined in 80-10-101(2) when applied as part of accepted agricultural practice.

(12) "Remedial action" includes all notification, investigation, administration, monitoring, cleanup, restoration, mitigation, abatement, removal, replacement, acquisition, enforcement, legal action, health studies, feasibility studies, and other actions necessary or appropriate to respond to a release or threatened release.

(13) "Remedial action contract" means a written contract or agreement entered into by a remedial action contractor with the state, or with a potentially ~~responsible-party~~ liable person acting pursuant to an order or request issued by the department, the United States, or any federal agency, to provide a remedial action with respect to a release or threatened release of a hazardous or deleterious substance.

(14) "Remedial action contractor" means:

(a) any person who enters into and is carrying out a

remedial action contract; or

(b) any person who is retained or hired by a person described in subsection (14)(a) to provide services relating to a remedial action.

(15) "Remedial action costs" means reasonable costs that are attributable to or associated with a remedial action at a facility, including but not limited to the costs of administration, investigation, legal or enforcement activities, contracts, feasibility studies, or health studies."

Section 53. Section 75-10-704, MCA, is amended to read:

"**75-10-704. Environmental quality protection fund.** (1) There is created in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) The fund may be used by the department only to carry out the provisions of this part and for remedial actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances.

(3) The department shall:

(a) establish and implement a system for prioritizing sites for remedial action based on potential effects on

human health and the environment; and

(b) investigate, negotiate, and take legal action, as appropriate, to identify ~~responsible-parties~~ liable persons, to obtain the participation and financial contribution of ~~responsible--parties~~ liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(4) There must be deposited in the fund:

(a) all penalties, natural resource damages, and remedial action costs recovered pursuant to 75-10-715;

(b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant to 75-10-711(5);

(c) funds appropriated to the fund by the legislature; and

(d) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202.

(5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and additional money remains in the fund, the department shall seek additional authority to spend money from the fund through the budget amendment process provided for in Title 17, chapter 7, part 4.

(6) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department

may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101.

(7) The department shall submit to the legislature at the beginning of each regular session a complete financial report on the fund, including a description of all expenditures made since the preceding report."

Section 54. Section 75-10-718, MCA, is amended to read:

"**75-10-718. Liability of remedial action contractor.** (1) A person who is a remedial action contractor with respect to a release or threatened release of a hazardous or deleterious substance is not liable under this part to any person for injuries, costs, damages, expenses, or other liability that results from the release or threatened release, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss or damage to property, or economic loss.

(2) Immunity from liability, pursuant to subsection (1), does not apply in the case of a release that is caused by conduct of the remedial action contractor that is negligent or grossly negligent or that constitutes intentional misconduct.

(3) This section does not affect the liability of a person under a warranty under federal, state, or common law or the liability to an employee of an employer who is a

remedial action contractor under any provision of law, including any provision of a law relating to workers' compensation.

(4) A state agency, state employee, or an employee of a political subdivision who provides services relating to remedial action while acting within the scope of its or his authority as a governmental agency or employee has the same exemption from liability as is provided to the remedial action contractor under this section.

(5) The defense provided by 75-10-715(5)(c) is not available to a person liable under 75-10-715(1) with respect to remedial action costs or damages caused by an act or omission of a remedial action contractor.

(6) Except as provided in subsections (4) and (5), this section does not affect the liability under this part of a person other than a remedial action contractor.

(7) This section does not affect the plaintiff's burden of establishing liability under this part.

(8) This section does not minimize the liability, lessen the standard of liability, or otherwise shield from liability a potentially ~~responsible--party~~ liable person under 75-10-715 or section 107 of CERCLA for costs or damages incurred as a result of a release or threatened release of a hazardous or deleterious substance."

Section 55. Section 76-14-112, MCA, is amended to read:

"76-14-112. Rangeland improvement loan special revenue account. (1) There is created a rangeland improvement loan special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be allocated to the rangeland improvement loan earmarked account ~~$185,000 for the biennium ending June 30, 1989, from the renewable resource development account created in 90-2-125,~~ any principal and accrued interest received in repayment of a loan made under the rangeland improvement loan program, and any fees or charges collected by the department pursuant to 76-14-116 for the servicing of loans, including arrangements for obtaining security interests."

Section 56. Section 80-9-206, MCA, is amended to read:

"80-9-206. Inspection fees -- filing of annual statement. (1) An inspection fee ~~shall~~ must be paid on all commercial feeds, including custom-mix feeds, except pet foods and specialty pet foods, distributed in this state as follows:

(a) The inspection fee ~~shall~~ must be set by rule on a cents-per-ton basis, except that the first 10 tons are exempt. The department may adjust the fee by rule to adequately fund the administration of this chapter. Adjustments ~~shall~~ may be made only after holding a public hearing on the proposed changes as required in 80-9-103 and

shall must remain within the limits of 5 cents to 25 cents per ton. The effective date of any rule adjusting fees will be is January 1 of the calendar year following the issuance of such the rule. All permit holders are to be notified immediately of any changes in fees.

(b) The feed manufacturer has primary responsibility for paying inspection fees. However, the distributor is responsible for inspection fees if the manufacturer has not paid them.

(c) Inspection fees shall must be paid on each commercial feed, including custom-mix feeds and feed ingredients that are defined as commercial feeds even though they are used in the manufacture of other commercial feeds. However, premixes prepared and used within a feed plant are exempt but not premixes or ingredients transferred from one plant to another even within the same organization.

(d) A person producing a commercial feed with a feed mixing plant at a feed lot, or a poultry, swine, or dairy operation may not be required to pay inspection fees on the commercial feeds produced and used in his feeding operation at the site, but he will be is responsible for any unpaid inspection fees on commercial feed purchased by him and on any commercial feed he produces and distributes other than in his feeding operations at the site.

(2) Each person who holds a permit as required in

80-9-201(1) shall:

(a) file, not later than January 31 of each year, an annual statement setting forth the number of tons of commercial feeds distributed in this state during the preceding calendar year (January 1 through December 31) and upon filing such a the statement shall pay the inspection fee at the rate stated in subsection (1) of this section. Inspection fees which that have not been remitted to the department on or before January 31 shall have a penalty fee of 10% with a minimum of $10 added to the amount due. The assessment of this penalty fee does not prevent the department from taking other action as provided in this chapter.

(b) keep those records which that are necessary or are required by the department to indicate accurately the tonnage of commercial feed distributed in this state. The department may examine the records to verify statements of tonnage.

(c) make accurate and prompt reports as required. Failure to do so is sufficient cause for the department to cancel or refuse to reissue a permit."

Section 57. Section 82-4-222, MCA, is amended to read:

"**82-4-222. Permit application.** (1) An operator desiring a permit shall file an application which shall that must contain a complete and detailed plan for the mining,

reclamation, revegetation, and rehabilitation of the land and water to be affected by the operation. ~~Such~~ The plan ~~shall~~ must reflect thorough advance investigation and study by the operator, ~~and shall~~ include all known or readily discoverable past and present uses of the land and water to be affected and the approximate periods of ~~such~~ use, and ~~shall~~ state:

(a) the location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) the names and addresses of the owners of record and any purchasers under contracts for deed of the surface of the area of land to be affected by the permit and the owners of record and any purchasers under contracts for deed of all surface area within one-half mile of any part of the affected area;

(c) the names and addresses of the present owners of record and any purchasers under contracts for deed of all subsurface minerals in the land to be affected;

(d) the source of the applicant's legal right to mine the mineral on the land affected by the permit;

(e) the permanent and temporary post-office addresses of the applicant;

(f) whether the applicant or any person associated with the applicant holds or has held any other permits under this

part and an identification of those permits;

(g) (i) whether the applicant is in compliance with 82-4-251 and, if known, whether ~~every~~ each officer, partner, director, or any individual, owning of record or beneficially, alone or with associates, 10% or more of any class of stock of the applicant, is subject to any of the provisions of 82-4-251. ~~and he~~ If so, the applicant shall ~~so~~ certify the fact. ~~and~~

(ii) whether any of the ~~foregoing~~ parties or persons specified in subsection (1)(g)(i) have ever had a strip-mining or underground-mining license or permit issued by any other state or federal agency revoked or have ever forfeited a strip-mining or underground-mining bond or a security deposited in lieu of a bond ~~and,--if~~. If so, a detailed explanation of the facts involved in each case must be attached~~,~~.

(h) whether the applicant has a record of outstanding reclamation fees with the federal coal regulatory authority;

(i) the names and addresses of any persons who are engaged in strip-mining or underground-mining activities on behalf of the applicant;

(j) the annual rainfall and the direction and average velocity of the prevailing winds in the area where the applicant has requested a permit;

(k) the results of any test borings or core samplings

which that the applicant or his agent has conducted on the land to be affected, including the nature and the depth of the various strata or overburden and topsoil, the quantities and location of subsurface water and its quality, the thickness of any mineral seam, an analysis of the chemical properties of such the minerals, including the acidity, sulphur content, and trace mineral elements of any coal seam, as well as the British thermal unit (Btu) content of such the seam, and an analysis of the overburden, including topsoil. If test borings or core samplings are submitted, each permit application shall must contain two copies each of two sets of geologic cross sections accurately depicting the known geologic makeup beneath the surface of the affected land. Each set shall must depict subsurface conditions at such intervals as the department requires across the surface and shall must run at a 90-degree angle to the other set. The department may not require intervals of less than 500 feet. Each cross section shall must depict the thickness and geologic character of all known strata, beginning with the topsoil. In addition, each application for an underground-mining permit shall must be accompanied by cross sections and maps showing the proposed underground locations of all shafts, entries, and haulageways or other excavations to be excavated during the permit period. These cross sections shall must also include all existing shafts,

entries, and haulageways.

(l) the name and date of a daily newspaper of general circulation within the county in which the applicant will prominently publish at least once a week for 4 successive weeks after submission of the application an announcement of his application for a strip-mining or underground-mining permit and a detailed description of the area of land to be affected should if a permit be is granted;

(m) a determination of the probable hydrologic consequences of coal mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface water and ground water systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas, so that cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability can be made. However, this determination is not required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. The permit may not be approved until such the information is available and is incorporated into the application.

(n) a coal conservation plan; and

(o) such other or further information as the department

may require.

(2) The application for a permit ~~shall~~ must be accompanied by two copies of all maps meeting the requirements of ~~the~~ subsections ~~below~~ (2)(a) through (2)(n). The maps ~~shall~~ must:

(a) identify the area to correspond with the application;

(b) show any adjacent deep mining or surface mining, ~~and~~ the boundaries of surface properties, and names of owners of record of the affected area and within 1,000 feet of any part of the affected area;

(c) show the names and locations of all streams, creeks, or other bodies of water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within 1,000 feet of ~~such~~ the area;

(d) show by appropriate markings the boundaries of the area of land affected, any cropline of the seam or deposit of mineral to be mined, and the total number of acres involved in the area of land affected;

(e) show the date on which the map was prepared and the north point;

(f) show the final surface and underground water drainage plan on and away from the area of land affected. This plan ~~shall~~ must indicate the directional and volume flow of water, constructed drainways, natural waterways used

for drainage, and the streams or tributaries receiving the discharge.

(g) show the proposed location of waste or refuse area;

(h) show the proposed location of temporary subsoil and topsoil storage area;

(i) show the proposed location of all facilities;

(j) show the location of test boring holes;

(k) show the surface location lines of any geologic cross sections ~~which~~ that have been submitted;

(l) show a listing of plant varieties encountered in the area to be affected and their relative dominance in the area, together with an enumeration of tree varieties and the approximate number of each variety occurring per acre on the area to be affected, and the locations generally of the various kinds and varieties of plants, including but not limited to grasses, shrubs, legumes, forbs, and trees;

(m) be certified as follows: "I, the undersigned, hereby certify that this map is correct and shows to the best of my knowledge and belief all the information required by the mining laws of this state." The certification ~~shall~~ must be signed and notarized. The department may reject a map as incomplete if its accuracy is not ~~so~~ attested.

(n) contain ~~such~~ other or further information as the department may require.

(3) If the department finds that the probable total

annual production at all locations of any strip-mining or underground-coal-mining operation applied for will not exceed 100,000 tons, any determination of probable hydrologic consequences that the department requires and the statement of result of test borings or core samplings ~~shall~~ must, upon written request of the operator, be performed by a qualified public or private laboratory designated by the department. The department shall assume the cost of the determination and statement to the extent that it has received funds for this purpose.

(4) In addition to the information and maps required ~~above~~ by this section, each application for a permit ~~shall~~ must be accompanied by detailed plans or proposals showing the method of operation, the manner, time or distance, and estimated cost for backfilling, subsidence stabilization, water control, grading work, highwall reduction, topsoiling, planting, and revegetating, and a reclamation plan for the area affected by the operation, which proposals ~~shall~~ must meet the requirements of this part and rules adopted under this part. The reclamation plan ~~shall~~ must address the life of the operation and indicate the size, sequence, and the timing of the subareas for which it is anticipated that individual permits will be sought.

(5) Each applicant for a coal mining permit shall submit as part of the application a certificate issued by an

insurance company authorized to do business in the state, certifying that the applicant has in force for the strip-mining or underground-mining and reclamation operations for which the permit is sought a public liability insurance policy, or evidence that the applicant has satisfied other state or federal self-insurance requirements. This policy ~~shall~~ must provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of strip-mining or underground-coal-mining and reclamation operations, including use of explosives, and entitled to compensation under applicable provisions of state law. The permittee ~~must~~ shall maintain the policy in full force and effect during the term of the permit and any renewal until all reclamation operations have been completed.

(6) Each applicant for a strip-mining or underground-mining reclamation permit shall file a copy of his application for public inspection with the clerk and recorder at the courthouse of the county ~~where~~ in which the major portion of mining is proposed to occur."

Section 58. Section 82-4-434, MCA, is amended to read:

"**82-4-434. Reclamation plan part of contract -- requirements.** The contract ~~shall~~ must meet the following requirements:

(1) The operator shall submit a reclamation plan to the

board before commencing any opencut mining and may not commence mining before the plan receives approval from the board. The operator may request and receive a meeting with the board prior to submission of the plan. If the board does not notify the operator that it has approved or disapproved a plan within 30 days after the board has received the plan, the board is considered to have approved the plan. The board, however, for sufficient cause, may extend its period of consideration for an additional 30 days if it notifies the operator prior to the end of the original 30-day period. The board shall submit each reclamation plan or amendments to the reclamation plan to the landowner for his recommendations and shall consider those recommendations in deciding whether to approve or disapprove any plan or amendments. The board may seek technical help from any state or federal agency. The board shall submit the plan immediately to the director of the university of Montana statewide archaeological survey for evaluation of possible archaeological or historical values in the area to be mined. The board may approve a reclamation plan only if the board has found that the plan provides for the best possible reclamation procedures available under the circumstances at the time, so that after mining operations are completed, the affected land will be reclaimed to a productive use. Once the reclamation plan is accepted in writing by the board, it

~~shall~~ must become a part of the contract but is subject to annual review and modification by the board.

(2) The board may not approve any reclamation plan unless the plan provides:

(a) that the land will be reclaimed for one or more specified uses, including but not limited to forest, pasture, orchard, cropland, residence, recreation, industry, and habitat for wildlife, including food, cover, or water, or other uses;

(b) that to the extent reasonable and practicable, the operator will establish vegetative cover commensurate with the proposed land use;

(c) whenever operations result in a need to prevent acid drainage or sedimentation on or in adjoining lands or streams, for the construction of earth dams or other reasonable devices to control water drainage, provided the formation of ~~such~~ the impoundments or devices will not interfere with other landowners' rights or contribute to water pollution;

(d) that to accomplish practical utilization of soil materials, ~~such~~ the material will be utilized for placement on affected areas, if required by the reclamation plan after completion or termination of that particular phase of the mining operations, at a depth sufficient for plant growth on slopes of 3:1 or less;

(e) that grading will be commensurate with the topography sought and land use designated;

(f) that metal and other waste will be removed or buried;

(g) that all access, haul, and other support roads will be located, constructed, and maintained in such a manner as to control and minimize channeling and other erosion;

(h) that the operator will submit a progress report annually to the board;

(i) that all operations will be conducted ~~so--as~~ to avoid range and forest fires and spontaneous combustion and that open burning of carbonaceous materials will be in accordance with suitable practices for fire prevention and control;

(j) that archaeological and historical values in areas to be mined will be given appropriate protection;

(k) that except for rock faces, bench faces, and excavations used for water impoundments, each surface area of the mined premises ~~which~~ that will be disturbed will be revegetated when its use for extractive purposes is no longer required;

(l) that seeding and planting will be done in a manner to achieve a permanent suitable vegetative cover for wildlife, livestock, and retardation of erosion and that all seed will be drilled unless otherwise provided in the plan;

(m) that reclamation will be as concurrent with mining operations as feasible and will be completed within a specified length of time; and

(n) that surface water and ground water will be given appropriate protection, consistent with state law, from deterioration of water quality and quantity that may arise as a result of the operation.

(3) If reclamation according to the plan has not been completed in the time specified, the board after 30 days' written notice shall order the operator to cease mining and, if the operator does not cease, shall institute an action to enjoin further operation and may sue for damages for breach of contract, for payment of the performance bond, or for both.

(4) (a) At any time during the period of reclamation, the operator may for good reason submit to the board a new reclamation plan or ~~amendment~~ amendments to the existing plan, including extensions of time.

(b) The board may approve the proposed new reclamation plan or amendments to the existing plan if:

(i) the operator has in good faith carried on reclamation according to the existing plan and the proposed new plan or amendments to the existing plan will result in reclamation as or more desirable than the reclamation proposed under the existing plan; or

(ii) it is highly improbable reclamation will be successful unless the existing plan is replaced or amended.

(c) When accepted, the proposed new reclamation plan or the proposed amendments to the existing plan become a part of the contract.

(5) The operator shall provide a performance bond or an alternative acceptable to the board in an amount commensurate with the estimated cost of reclamation, but in no case may the bond be less than $200 per acre. The estimated cost of reclamation ~~shall~~ must be set forth in the reclamation plan.

(6) The contract, reclamation plan, and amendments accepted by the board ~~shall be~~ are a public record and are open to inspection.

(7) The contract ~~shall become~~ is effective when signed by the board and the operator and ~~shall remain~~ remains in force until terminated by mutual consent or by the board upon 6 months' notice."

Section 59. Section 85-7-102, MCA, is amended to read:

"85-7-102. Evidence of title. (1) The following documents ~~shall be~~ are sufficient evidence of title for the purpose of this chapter:

(a) the certificate of the county clerk and recorder;

(b) the certificate of the department of state lands; or

(c) records of ownership prepared by licensed title insurance ~~agents~~ producers.

(2) ~~Where~~ When lands have been purchased from the state and part or all of the purchase money has been paid but the patents or deeds from the state to ~~such~~ the lands have not been issued, the receipt or receipts held by the purchasers or the certificate of the department of state lands showing the payments on account of purchase ~~shall be~~ is evidence of title to ~~such~~ the lands under this chapter."

Section 60. Section 87-4-304, MCA, is amended to read:

"87-4-304. License classification and fees. (1) The following classes of licenses ~~shall~~ may be issued and the following fees charged ~~therefor~~ for the licenses:

(a) resident fur dealer's license, $10;

(b) nonresident fur dealer's license:

(i) ~~the fee must be~~ the same as the fee charged in the nonresident's state of residence for a Montana fur dealer seeking licensure in that state; or

(ii) if the nonresident's state does not issue a nonresident fur dealer's license, ~~the fee is~~ $50;

(c) fur dealer's agent's license, $10.

(2) ~~Any~~ A person who is employed by a resident or nonresident fur dealer as a traveling fur buyer ~~shall be~~ deemed is considered a fur dealer's agent. A fur dealer's agent's license may be issued to any person who is employed

as a fur buyer by a licensed resident or licensed nonresident fur dealer, providing that it ~~shall--be~~ is the responsibility of each ~~and-every~~ fur dealer and fur dealer's agent to have the proper license before buying or dealing in furs as defined ~~by~~ in 87-4-301."

Section 61. Section 87-5-121, MCA, is amended to read:

"**87-5-121. Nongame wildlife account.** (1) There is a nongame wildlife account in the state special revenue fund provided for in 17-2-102.

(2) All money collected under 15-30-150 and all interest earned by the fund before being expended under this section must be deposited in the account~~,--except-as-provided in-subsection-(5)~~.

(3) Money in the account must be used by the department, upon the approval of the commission as determined under 87-5-122, to provide adequate funding for:

(a) research and education programs on nongame wildlife in Montana, as provided for in 87-5-104; and

(b) any management programs for nongame wildlife approved by the legislature under 87-5-105 as species or subspecies in need of management.

(4) The money is available to the department in the same manner as provided in 87-1-601, except that ~~no~~ money collected under 15-30-150 may not be used:

(a) for the purchase of any real property; or

(b) in such a way as to interfere with the production on or management of private property.

~~(5)--The---department---of---revenue---may--deduct--from collections-an-amount-not-to-exceed-$1-for-each-tax-checkoff contribution--for--administering--the---voluntary---checkoff program.--(Subsection-(5)-is-not-effective-since-contingency in-sec.-5,-Ch.-589,-L.-1987,-did-not-occur.)~~"

NEW SECTION. **Section 62.** **Code commissioner instruction.** The code commissioner is instructed to implement 1-11-101(2)(g)(ii) by correcting any clearly inaccurate references to other sections of the Montana Code Annotated contained in material enacted by the 52nd legislature.

NEW SECTION. **Section 63.** **Repealer.** Sections 2-4-321, 2-4-322, 2-4-323, 3-10-305, 3-10-306, 7-2-2214, 25-31-114, 25-31-116, 25-31-201, 25-31-202, 25-31-203, 25-31-204, 25-31-301, 25-31-302, 25-31-303, 25-31-304, 25-31-305, 25-31-306, 25-31-307, 25-31-308, 25-31-401, 25-31-403, 25-31-404, 25-31-408, 25-31-501, 25-31-502, 25-31-503, 25-31-504, 25-31-505, 25-31-506, 25-31-507, 25-31-511, 25-31-521, 25-31-522, 25-31-701, 25-31-804, 25-31-811, 25-31-812, 25-31-901, 25-31-902, 25-31-903, 25-31-904, 25-31-905, 25-31-911, 25-31-912, 25-31-913, 25-31-915, 25-31-1001, 25-31-1003, 25-31-1004, 25-31-1005, 25-31-1101, 25-31-1102, 25-31-1103, 25-31-1105, 25-32-101, 25-32-102,

25-32-103, 25-32-104, 53-8-101, 53-8-102, 53-8-103, and 53-8-104, MCA, are repealed.

-End-

CHAIRMAN--RICHARD PINSONEAULT
NORMAL SCHEDULE==> SITE: ROOM 325 DAYS: M,T,W,T,F TIME: 10:00 A.M.

SECRETARY-JOANN BIRD

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
SB0001	1/01	1/16		PASS AS AMENDED		1/22
MAZUREK, JOE			REVISE UCC			
SB0006	12/28	1/16		DO PASS		1/18
MAZUREK, JOE			REVISE UNIFORM STATUTORY RULE AGAINST PERPETUITIES			
SB0007	12/28	1/22		PASS AS AMENDED		2/23
MAZUREK, JOE			REPLACE UNIFORM FRAUDULENT CONVEYANCES ACT WITH UNIFORM FRAUD. TRANSFER ACT			
SB0024	12/28	1/08		PASS AS AMENDED		1/14
WILLIAMS, BOB			REQUIRE ADULT CHILD TO PAY BURIAL COSTS FOR INDIGENT PARENTS			
SB0031	12/31	1/16		PASS AS AMENDED		2/23
TOWE, TOM			REGULATE DRUG TESTING			
SB0033	1/02	1/11		DO PASS		1/11
GAGE, DEL			CODE COMMISSIONER BILL			
SB0034	1/02			TABLED ON 02/20		
THAYER, GENE			ALLOW DEFENSE OF BANK NEGLIGENCE IN CASHING CHECK OF FICTITIOUS PAYEE			
SB0037	1/03	1/18		PASS AS AMENDED		1/18
HALLIGAN, MIKE			REQUIRE COUNTIES TO PROVIDE YOUTH DETENTION SERVICES INCL. REG. FACILITIES			
SB0038	1/03	1/17		PASS AS AMENDED		1/18
HALLIGAN, MIKE			REVISE THE 24-HOUR STATUTORY PERIOD FOR HOLDING A YOUTH IN JAIL			
SB0039	1/03	1/15		DO PASS		1/18
HALLIGAN, MIKE			ELIMINATE INCARCERATION IN JAIL FOR MINOR TRAFFIC OFFENSES			
SB0049	1/03			DO PASS		1/22
			OFFENSE OF CRIMINAL SALE OF DANGEROUS DRUGS ON OR NEAR SCHOOL PROP.			

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on January 11, 1991, at 10:00 a.m.

ROLL CALL

Members Present:
Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: Senators Brown and Mazurek

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Chairman Pinsoneault introduced Patricia Bradley, Montana Magistrates Association, to members of the Committee. He announced that Ms. Bradley had prepared information on Montana courts of limited jurisdiction for their information.

HEARING ON SENATE BILL 33

Presentation and Opening Statement by Sponsor:

Senator Del Gage, District 5, explained that Senate Bill 33 is a traditional bill and is referred to as the Code Commissioner bill. He told the Committee the bill corrects and put statutes into conformity with Montana justice and city court procedural codes.

Proponents' Testimony:

Greg Petesch, Director, Legal Services Division, explained the procedure for drafting the bill, and advised committee members that he is required by law to submit a report to the Legislative Council

by November 1. He stated that prior to this date each impacted agency received a copy of the report and was requested to provide a written response. Mr. Petesch said those affected parties do not appear to have problems with the changes.
Mr. Petesch commented that city courts have been added to these rules. He said Section 42 deals with time of schedule on forfeiture hearings, adding that the Department of Justice has litigated this issue three different times.

Mr. Petesch explained that Section 62 pertains to implied Code Commissioner instructions to fix obsolete or erroneous references enacted during the Session.

Opponents' Testimony:

There were no opponents of Senate Bill 33.

Questions From Committee Members:

Senator Towe commented that a lot of work has been done by and a lot of trust has been placed in Greg Petesch. He asked about the authority given to the Code Commissioner in Section 62. Greg Petesch replied that was done for the first time last session and will be standard in every Code Commissioner bill in the future.

Senator Towe asked Greg Petesch if he had the authority to change numbers, but not language. Mr. Petesch replied that he has the authority to change grammar without affecting meaning.
Senator Towe said he didn't believe the bill would give the Code Commissioner authority to change language such as "insurance agent" to "insurance producer".

Senator Towe than addressed Section 42, and said the 60-day language was confusing. Greg Petesch replied that it is being recodified because the courts made decisions in three different cases.

Closing by Sponsor:

Senator Gage advised the Committee that it appeared to him "that Greg Petesch has more confidence from more legislators than anyone has in anyone else in the Legislature". He said the Legislative Council agreed with the recommendations made by Mr. Petesch on the items to be either included or excluded from the bill.

EXECUTIVE ACTION ON SENATE BILL 33

Motion:

Senator Svrcek made a motion that Senate Bill 33 Do Pass.

Senator Svrcek made a second motion that Senate Bill 33 be placed on the Consent Calendar.

Discussion:

There was no discussion of Senate Bill 33.

Amendments, Discussion, and Votes:

Recommendation and Vote:

A roll call vote was taken which included proxy votes from excused Senators Brown and Mazurek. Both motions carried unanimously.

ADJOURNMENT

Adjournment At: 10:20 a.m.

Senator Dick Pinsoneault, Chairman

Joann T. Bird, Secretary

DP/jtb

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 1-11-91 Bill No SB33 Time 10:20 am

NAME	YES	NO
Sen. Brown	✓	
Sen. Crippen	✓	
Sen. Doherty	✓	
Sen. Grosfield	✓	
Sen. Halligan	✓	
Sen. Harp	✓	
Sen. Mazurek	✓	
Sen. Rye	✓	
Sen. Svrcek	✓	
Sen. Towe (Abstain)	✓	
Sen. Yellowtail	✓	
Sen. Pinsoneault	✓	

Jody Bird
Secretary

Sen. Dick Pinsoneault
Chairman

Motion: C. Svrcek - DP motion

SF-3 (Rev. 1987)

CHAIRMAN--BILL STRIZICH
NORMAL SCHEDULE==> SITE: ROOM 312-2 DAYS: M,T,W,T,F TIME: 8:00 A.M.

SECRETARY-JEANNE DOMME

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
SB0001	2/02	3/12		CONCUR AS AMENDED		3/18
MAZUREK, JOE			REVISE UCC			
SB0006	1/23	2/04		CONCUR		2/04
MAZUREK, JOE			REVISE UNIFORM STATUTORY RULE AGAINST PERPETUITIES			
SB0007	3/04	3/12		CONCUR AS AMENDED		3/14
MAZUREK, JOE			REPLACE UNIFORM FRAUDULENT CONVEYANCES ACT WITH UNIFORM FRAUD. TRANSFER ACT			
SB0033	1/16	1/28		CONCUR		1/28
GAGE, DEL			CODE COMMISSIONER BILL			
SB0035	1/16	1/25		CONCUR		1/25
WEEDING, CECIL			REQUIRE COUNTY ATTORNEY TO SERVE AS LEGAL ADVISER TO HOSPITAL DISTRICT			
SB0037	1/22	2/07		CONCUR AS AMENDED	APPROPRIATIONS	2/11
HALLIGAN, MIKE			REQUIRE COUNTIES TO PROVIDE YOUTH DETENTION SERVICES INCL. REG. FACILITIES			
SB0038	1/22	2/07		CONCUR		2/11
HALLIGAN, MIKE			REVISE THE 24-HOUR STATUTORY PERIOD FOR HOLDING A YOUTH IN JAIL			
SB0039	1/22	2/08		CONCUR AS AMENDED		2/11
HALLIGAN, MIKE			ELIMINATE INCARCERATION IN JAIL FOR MINOR TRAFFIC OFFENSES			
SB0049	1/25	2/05		CONCUR AS AMENDED		2/06
WATERMAN, MIGNON			CREATE OFFENSE OF CRIMINAL SALE OF DANGEROUS DRUGS ON OR NEAR SCHOOL PROP.			
SB0051	2/11	3/08		CONCUR AS AMENDED		3/26
VAN VALKENBURG, FRED			REVISE CRIMINAL PROCEDURE			
SB0056	1/24	2/07		CONCUR		2/11
YELLOWTAIL JR., BILL			RESTRICT PLACEMENT OR EVALUATION OF YOUTH AT A YOUTH CORRECTIONAL FACILITY			

Closing by Sponsor:

REP. BROOKE stated HB #379 will have many positive effects. Parole good time should prove to have positive programmatic and financial impact on the correction system without jeopardizing the safety of the general public.

HEARING ON SB #33
CODE COMMISSIONER BILL

Presentation and Opening Statement by Sponsor:

SEN. GAGE, SENATE DISTRICT 5, stated this bill was requested by the code commissioner for the legislative council. It contains areas that the code commissioner has found during his interim where there has been erroneous records, sections or areas of law that are no longer in effect.

Proponents' Testimony:

Greg Petech, Code Commissioner, stated during the interim the Legislative Council came across errors in the codes that don't carry any particular substantive and make a record of that. I then draft this proposed bill and send the sections that effect the agencies to the agency affected and I require them to respond in writing saying this is the proper change that needs to be made. Every provision in the bill has been proved by impacting agency and if there is no impacting agency I submit each section to the affective organization.

Opponents' Testimony: none

Questions From Committee Members:

REP. RICE asked Mr. Petech, on Section 5 page 7 of the bill, I am wondering if the language that we now read in the law is somewhat awkward on the section dealing with juries in justice court. Is this they way you wanted it to read? Mr. Petech said yes it is.

REP. RICE asked Mr. Petech on section 10 page 11, why are we changing that from 10,000 to 500,000. Mr. Petech said if you look at the explanation on the green sheets. There are some conflicting borrow limits being placed in the outward counties. This conforms to borrow limit to a limit contained in another section of the code. For some reason, there are two provisions in place that deal with borrow limits in counties. I am assuming that the greater one is always in control and we are getting rid of the conflict.

Closing by Sponsor: none

Vote: Motion carried 16 to 4 with Rep's: Rice, Nelson, Johnson, and Brooke voting no.

Motion/Vote: REP. BROWN MOVED HB 307 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB #33

Motion/Vote: REP. BROWN MOVED SB 33 DO BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT

Adjournment: 10:20 a.m.

BILL STRIZICH, Chair

JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE Jan. 28, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		